

2018

# City of Bath Maine Ordinances

Bath, Me.

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## **CHAPTER 1**

### **GENERAL PROVISIONS**

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## GENERAL PROVISIONS

### CHAPTER 1. GENERAL PROVISIONS.

#### Sec. 1-101. Designation and citation of Code.

The ordinances embraced in this and the following Chapters and Sections shall constitute and be designated as "The Municipal Code of Bath, 1976," and may be so cited. The Code may also be cited as the Municipal Code or in the provisions which follow, as "This Code".

#### Sec. 1-102. Rules of Code construction; definitions.

(a) In the construction of this Code and all ordinances, the following rules of construction and definitions shall be observed unless inconsistent with the manifest intent of the Council or the context clearly requires otherwise :

- (1 ) **And/or** means "**and**" may read "**or**" and "**or**" may be read "**and**" if the sense requires it.
- (2) **Bond** means an obligation in writing, binding the signatory to pay a sum certain upon the happening or failure of an event.
- (3) **Building** means any structure intended to have walls and a roof.
- (4) **Business** means any profession, trade, occupation and any other commercial enterprise conducted for monetary reward.
- (5) **Charter** means the Charter of the City of Bath
- (6) **City** means the City of Bath, in the County of Sagadahoc and State of Maine.
- (7) **City limits** means within the City and includes not only the corporate limits of the City, but also any property which it owns or which is under its jurisdiction.
- (8) **City Manager** means the chief administrative officer of the City.
- (9) **Clerk** mean the City Clerk.
- (10) **Council** means the governing body of the City, the City Council.
- (11) **County** means Sagadahoc County, Maine.

(12) **Definitions** given within a Chapter or Article apply only to words or phrases used in such Chapter or Article unless otherwise provided.

(13) **Designees**, following an official of the City, means the authorized agent, employee or representative of such official.

(14) **Director** means the chief executive officer of the Office or Department to which the particular Division, Bureau, Board, Agency or subordinate municipal administration body has been assigned by the Council.

(15) **Gender**: Words in any Section importing the masculine gender shall include the feminine and neuter as well as the masculine.

(16) **Health Officer** means the head of the Health Department or any person designated by the Council to perform the City health functions and duties.

(17) **May**: The word "**may**" is permissive and discretionary.

(18) **Month** means a calendar month.

(19) **Number**: Words used in the singular include the plural and the plural includes the singular.

(20) **Oath** means any form of attestation by which a person signifies that he is bound in conscience to perform an act or to speak faithfully and truthfully, and includes an affirmation or declaration in cases where by law an affirmation may be substituted for an oath.

(21) **Occupant** means tenant or person in actual possession.

(22) **Operate** means carry on, keep, conduct, maintain, manage, direct or superintend.

(23) **Ordinances** mean the ordinances of the City of Bath and all amendments and supplements thereto.

(24) **Owner** means one who has complete dominion over particular property and who is the one in whom legal or equitable title rests; when applied to a building or land, owner means any part owner, joint owner, owner of a community or partnership interest, life tenant, tenant in common, or joint tenant, of the whole or part of such building or land.

(25) **Person** means any individual, natural person, joint stock company, Partnership, voluntary association, society, club, firm, company, corporation, business trust, organization, or any other group acting as a unit, or the manager, lessee, agent, servant, partner, member, director, officer or

employee of any of them including an executor, administrator, trustee, receiver, or other representative appointed according to law.

(26) **Personal Property** means any money, goods, movable chattels, things in action, evidence of debt, all objects and rights which are capable of ownership, and every other species of property except real property.

(27) **Preceding and following** mean next before and next after, respectively.

(28) **Proprietor** means an owner of the property or premises including any person, firm, association, corporation, club, partnerships or other group acting as a unit whether acting by themselves or by a servant, agent or employee.

(29) **Public Place** shall mean and include any public street, road, or highway, alley, lane, sidewalk, crosswalk, or other public way, or any public resort, place of amusement, stadium, athletic field, park, playground, public building or grounds appurtenant thereto, school building or school grounds, public parking lot or any vacant lot, the elevator, lobby, halls, corridors and areas open to the public of any store, office, or apartment building or any other place commonly open to the public.

(30) **Real Property** means land, together with all things attached to the land so as to become a part thereof.

(31) **Shall:** The word "**shall**" is mandatory.

(32) **Sidewalk** means that portion of a street between the curb line and the adjacent property along the margin of a street or other highway, designed, constructed and intended for the use of pedestrians to the exclusion of vehicles.

(33) **Signature and Subscription** mean the name of a person, mark or symbol appended by him to a writing with intent to authenticate the instrument as one made or put into effect by him.

(34) **State** means the State of Maine.

(35) **Statutes or Revised Statutes** mean the latest published edition of the Statutes or Revised Statutes of Maine.

(36) **Street** means all streets, highways, avenues, boulevards, parkways, roads, lanes, viaducts, bridges and the approaches thereto, docks built on the public street, alleys, courts, places, squares, curbs, sidewalks, recreation and park lands used for vehicular traffic, or other public ways or thoroughfares in this City, over which it has jurisdiction, which have been or may

hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.

(37) **Tenant** means any person occupying the premises, building or land of another in subordination to such other person's title and with his express, press or implied assent, whether he occupies the whole or a part of those premises, building or land, whether alone or with others.

(38) **Tense:** Words used in the past or present tense include the future, past and present where applicable unless the context clearly indicates otherwise.

(39) **Time** means an hour of the day according to the official time of the City.

(40) **Time of Performance** means the time within which an act is to be done as provided in any Section or any order issued pursuant to any Section, when expressed in days, and is computed by excluding the first and including the last day. If the last day is Sunday or a legal holiday, that day shall not be counted in the computation. When the time is expressed in hours, the whole of Sunday or a legal holiday from midnight to midnight is excluded.

(41) **Treasurer** means the City Treasurer.

(42) **Watercourse** means any drain, ditch and stream, flowing in a definite direction or course in a bed with banks.

(43) **Week** means seven (7) days.

(44) **Words and phrases** shall be construed according to the common and approved usage of the language, but technical words and phrases and others that have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such meaning.

(45) **Writing and Written** mean any representation of words, letters or figures, whether by printing or otherwise, capable of comprehension by ordinary visual means.

(46) **Year** means a calendar year.

#### **Sec. 1-103. Authority of Code.**

This Code is a revision and codification of the general ordinances of the City of Bath which have been enacted and published in accordance with the authority granted in 30 M.R.S.A. § 2154 (1964).

#### **Sec. 1-104. Territorial applicability.**

This Code shall refer only to the commission or omission of acts within the territorial limits of the City and to that territory outside this City over which the City has jurisdiction or control by virtue of any Constitutional or Charter provisions, or any law.

**Sec. 1-105. Certified copy of Code admissible into evidence.<sup>1</sup>**

**Any printed copy of this Code or any printed supplement thereto, published and certified according to law, shall be received in evidence in any court for the purpose of proving any Charter or ordinance provision therein contained with like effect and for the same purpose as the original ordinances, minutes or journals would be received.**

**Sec. 1-106. Acts by deputy or designee.**

Whenever a power is granted to or a duty is imposed upon a public officer or employee, the power may be performed by an authorized deputy or designee or by any person authorized pursuant to law or ordinances, unless this Code expressly provides otherwise.

**Sec. 1-107. Effective date of ordinance, amendment or repeal; publication requirements.**

(a) No Ordinance or amendment or repeal of any Section hereof shall be operative, in full force and effect, until it has been adopted in the manner prescribed by law and until it has been published.

(b) Publication shall be sufficient if made in a newspaper published or in general circulation in the City or if made in a book or pamphlet form.

**Sec. 1.108. Code provisions as continuance of existing ordinances.**

The provisions appearing in this Code, insofar as they relate to the same subject matter and are substantially the same as those ordinance provisions previously adopted by the City and existing at the effective date of this Code, shall be considered as restatements and continuations thereof and not as new enactments.

**Sec. 1.109. Effect of repeal of ordinances; revival.**

(a) Neither the adoption of this Code nor the repeal hereby of any ordinance of this City shall in any manner affect the prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty at the

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<sup>1</sup> **State law reference:** As to proof of ordinances, see 30 M.R.S.A. §2155 (1964).

effective date due and unpaid under such ordinance, nor be construed as affecting any of the provisions of such ordinance relating to the collection of any such license or penalty or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof, required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereof appertaining shall continue in full force and effect.

(b) Whenever any ordinance repealing a former ordinance, clause or provision is repealed, such repeal shall not be construed as reviving such former ordinance, clause or provision, unless expressly provided therein.

**Sec. 1-110. Conflicting provisions.**

(a) If the provisions of different Chapters, Articles, Divisions or Sections of this Code conflict with or contravene each other, the provisions of each Chapter, Article, Division or Section shall prevail as to all matters and questions growing out of the subject matter of that Chapter, Article, Division or Section.

(b) If clearly conflicting provisions are found in different Sections of the same Chapter, the provisions of the Section last enacted shall prevail unless the construction is inconsistent with the meaning of that Chapter.

(c) Where any conflict exists between a Chapter, Article, Division or Section of this Code and any Chapter or Section of the City Charter or State Code, the latter shall prevail.

**Sec. 1-111 . References include amendments; construction.**

(a) Any reference in this Code to an ordinance or provision of this Code shall mean such ordinance or provision as may now exist or is hereafter amended. .

(b) Any references in this Code to Chapters, Articles, Divisions or , Sections shall be to the Chapters, Articles, Divisions and Sections of this Code unless otherwise specified.

**Sec. 1-112. Catchlines and headings; construction.**

All designations and headings of Chapters, Articles, Divisions and Sections are intended only for convenience in arrangement and as mere catchwords indicate the contents of such Chapters, Articles, Divisions or Sections, whether printed in boldface type or italics. They shall not be deemed or taken to be any part or title of such Chapters, Articles, Divisions or Sections; nor unless expressly so provided, shall they be so deemed upon amendment or reenactment, nor shall they be construed to govern, limit, modify, alter or in any other manner affect the scope,



meaning or intent of any of the provisions of this Code.

**Sec. 1-113. Interpretation of Section numbers.**

In reading a Section number from left to right, the digit or digits to the left of the dash designate the Chapter number. The digit or digits to the right of the dash designate the Section number within the Chapter. Figures to the right of a decimal point indicate new Chapters or Sections inserted between existing Chapters or Sections. The decimal system shall be used to maintain the numerical order of this Code.

**Sec. 1-114. Continuing offenses.**

Each day any violation of this Code occurs or continues to exist shall constitute a separate offense.

**Sec. 1-115. Prohibited acts include causing, permitting, concealing.**

Whenever in this Code any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

**Sec. 1-116. Notices to be written and in English language.**

All notices, reports, statements, applications or records required or authorized by this Code shall be made in writing in the English language unless specifically provided otherwise.

**Sec. 1-117. Notices; service and proof.**

(a) Unless otherwise specifically provided, whenever a notice is required to be given pursuant to any Section of this Code such notice shall be given either by personal delivery to the person to be notified or by deposit in the United States Mail in a sealed envelope, postage prepaid, addressed to the person to be notified at his last known business or residence address as the same appears in the public records or other records pertaining to the matter for which such notice is served, or by any other method of delivery approved by law. Service by mail shall be deemed to have been completed at the time of deposit in the post office or any United States mailbox.

(b) Proof of giving any notice may be made by the certificate of any officer or employee of this City or by affidavit of any person over the age of eighteen (18) years who actually accomplished personal service in conformity with this Code or other provisions of law applicable to the subject matter concerned, or by a return receipt signed by the recipient notified by United States mail.

**Sec. 1-118. Code severability.**

It is declared to be the intention of the Council that the Sections, Subsections,, paragraphs, sentences, clauses and words of this Code are severable. In any Section, Subsection, paragraph, sentence, clause or word is declared unconstitutional or otherwise invalid by the lawful judgment or decree of any court of competent jurisdiction, its unconstitutionality or invalidity shall not affect the validity of any of the remaining Sections, Subsections, paragraphs, sentences, clauses and words of this Code, since the Sections or parts of Sections would have been enacted by the Council without and irrespective of any unconstitutional or otherwise invalid Section, Subsection, paragraph, sentence, clause or word being incorporated into this Code.

**Sec. 1-119. Same offense punishable by different Sections of the Code; City Solicitor's option.**

In all cases where the same offense is made punishable or is created by different Sections of this Code, the City Solicitor may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense.

**Sec. 1-120. General penalty; subsequent violation; suspension or revocation of license or permit.**

(a) Whenever in this Code or in any ordinance of the City any act or failure to do a required act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine not exceeding One Hundred Dollars (\$100.00) plus costs or by imprisonment in the City or County Jail or other place of legal incarceration for not more than one (1) year, or by both such fine and imprisonment in the discretion of the court.

(b) Whenever in this Code or in any ordinance there is no provision for a greater penalty for a second or subsequent conviction for a violation of this Code, any person who has previously been convicted of the same violation shall be subject to a fine of not less than Ten Dollars (\$10.00) for each succeeding offense, not to exceed the maximum penalty permitted for each offense.

(c) If the penalty for a particular offense is limited by State Statute then such limitation shall be applicable to the provisions of this Code and other ordinances of the City notwithstanding the provisions of this Section.

(d) The suspension or revocation of any license, certificate or other privilege conferred by the City, shall not be regarded as a penalty for the purposes of this Code but shall be in addition thereto.

**Sec. 1-121. Adoption of Code.<sup>2</sup>**

The Code of the City of Bath, Maine 1976, subject to the changes and revisions contained in Exhibit A attached hereto hereby is adopted as a codification of the Ordinances of the City of Bath, together with the amendments attached hereto as Exhibit B which have already been enacted by the City Council and which are to be integrated into the Code.

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<sup>2</sup> **EDITORS NOTE:** The material contained in Exhibits A and B has been integrated into the appropriate sections of the Code.  
The original exhibits are on file at the office of the City Clerk, Ordinance 77-3.

## **CHAPTER 2**

### **ADMINISTRATION**

#### **Article 1. Administrative Code**

- §2-01. City Manager.
- §2-02. Governmental Organization.
- §2-03. Executive Department.
- §2-04. Finance Department.
- §2-05. Records Department.
- §2-06. Assessment Department.
- §2-07. Codes Department.
- §2-08. General Assistance Department.
- §2-09. Wastewater Treatment Plant Department.
- §2-10. Public Works Department.
- §2-11. Cemeteries and Parks Department.
- §2-12. Recreation Department.
- §2-13. Planning and Community Development Dept.
- §2-14. Police Department.
- §2-15. Fire Department.
- §2-16. Department of Education.

## CHAPTER 2

### ADMINISTRATION

#### Article 1. Administrative Code

##### Section 2-01. City Manager

(A) The City Manager shall be the Chief Executive and Administrative Officer of City Government. He shall enforce the laws of the City and require faithful performance of all administrative duties and shall be responsible to Council for the administration of all City affairs placed under his charge.

(B) In the exercise of his administrative authority, the City Manager shall have those powers and shall perform those duties set forth in Section 302 of the Charter of the City of Bath and shall further have responsibilities over personnel in accordance with Section 402 of the Charter of the City of Bath and with respect to the City of Bath budget as prescribed in Chapter VI of the Charter of the City of Bath.

(C) In order to carry out his administrative duties, the City Manager shall have the following specifically listed authorities. This list of authorities is not meant to be limiting with regard to the powers of the Manager in any way but merely illustrative of the types of authorities available to him.

1. Prescribe Rules. The Manager shall have the power to prescribe such rules and regulations as he shall deem necessary or expedient for the conduct of administrative agencies or departments subject to his authority, and he shall have the power to revoke, suspend or amend any rule or regulation of the administrative service by whomever prescribed.

2. Investigate. The Manager shall have the power either by himself or by any officer or person designated for that purpose by him, to investigate and to examine or inquire into the affairs of any department, division, bureau or office. He shall have the power to employ consultants and professional counsel to aid in such investigations, examinations, or inquiries.

3. Override Officials. The Manager shall have the power to set aside any action taken by a department head and may supersede him in the functions of that department head's office.

4. Delegate Duties. The Manager shall have the power to direct any department, division or bureau to perform work for any other department, division or bureau.

5. Appear Before Council. The Manager shall have the power to appear before, and address Council at any meeting or workshop.

## Section 2-02. Governmental Organization

The governmental organization of the City shall be divided into the following departments:

- |                                             |                                                 |
|---------------------------------------------|-------------------------------------------------|
| 1. Executive Department                     | City Manager                                    |
| Division of Purchasing                      |                                                 |
| Division of Personnel                       |                                                 |
| 2. Finance Department                       | Finance Director                                |
| Division of Collections                     |                                                 |
| and Treasury                                |                                                 |
| Division of Administration                  |                                                 |
| 3. Records Department                       | City Clerk                                      |
| 4. Assessment Department                    | City Assessor                                   |
| 5. Codes Department                         | Codes Enforcement Officer                       |
| Division of Building Codes/                 |                                                 |
| Inspection                                  |                                                 |
| Division of Health                          |                                                 |
| Division of Plumbing,                       |                                                 |
| Sewer and Electrical                        |                                                 |
| 6. General Assistance Department            | General Assistance<br>Administrator             |
| 7. Wastewater Treatment Plant<br>Department | Superintendent Wastewater<br>Treatment plant    |
| 8. Public Works Department                  | Public Works Director                           |
| Division of Streets and<br>Sidewalks        |                                                 |
| Division of Storm water and Sewers          |                                                 |
| Division of Solid Waste                     |                                                 |
| Division of Forestry                        |                                                 |
| 9. Cemeteries and Parks Department          | Director of Cemeteries, Parks and<br>Recreation |
| 10. Recreation Department                   | Director of Cemeteries, Parks and<br>Recreation |

11. Planning and Community Development Department	Planning and Community Development Director
12. Fire Department	Fire Chief
13. Police Department	Police Chief
14. Department of Education	Superintendent of Schools

### **Section 2-03. Executive Department.**

(A) General Duties. The Executive Department shall be responsible for conducting all executive activities on behalf of the City, including all personnel functions and all purchasing functions in accordance with Chapters XII and VII of the Code of the City of Bath.

(B) Executive Director. The City Manager shall serve as the head of the Executive Department. It shall be his duty to attend to all executive aspects of City Government, including but not limited to, purchase and sale of City property and administration of personnel for all City Departments. In this connection, the City Manager shall perform all other duties required by City Charter, City Ordinances, State Law, or as may from time to time be requested of him by the City Council.

(C) Division of Purchasing. It shall be the function of the Division of Purchasing to administer the purchase and sale of City property in accordance with Chapter VII of the Code of the City of Bath. The City Manager shall be the purchasing agent for the City.

(D) Division of Personnel. It shall be the function of the Division of Personnel to administer all personnel matters on behalf of the City of Bath in accordance with Chapter XII of the Code of the City of Bath, the City Charter, other applicable City Ordinances, State Law or as may from time to time be requested of him by the City Council. The City Manager shall serve as Director of Personnel for the City.

### **Section 2-04. Finance Department.**

(A) General Duties. The Finance Department shall be responsible for conducting all financial transactions on behalf of the City and for all accounting and record keeping in connection with those transfers; this shall include the collection of monies due to the City of Bath, payment of all financial obligations of the City, investment of City funds where appropriate, conducting City bonding activities, borrowing and all other financial activities authorized by the City Charter, State Law or Ordinance.

(B) Finance Director. The Finance Director shall act as the head of the Finance Department and it shall be his duty to attend to all financial aspects of City Government, and to supervise all financial activities, subject to the direction of the City Manager. The Finance Director shall specifically be responsible for the duties of Municipal Tax Collector and the duties of Municipal Treasurer; and he shall perform all other duties required by City Charter, City Ordinances, State Law or as may, from time to time, be requested of him by the City Manager and/or City Council.

(C) Division of Collections and Treasury. It shall be the function of the Division of Collections and Treasury, under the direction of the Finance Director and subject to the supervision of the City Manager, as follows:

1. Tax Collection. To collect and account for all taxes in the manner authorized, as required by law.
2. Other Collection. To collect all other monies whether in the form of grants, user fees, interest on investments, proceeds of bonds, or borrowing, State or Federal funds or any other funds whatsoever due and owing to the City and to account for same.
3. Certification and Payment of Proposed Expenditures and Monies. To obtain the appropriate certification where necessary of the City Manager, Department Head or other Municipal Official, for all expenditures whether in the form of bills, invoices, payrolls or other evidences of claims, demands or charges against the City Government; to determine, with legal advice where necessary and appropriate, the regularity, legality and correctness of such claims, demands or charges; and to determine that there is an unencumbered balance of appropriation in the cost center before making any particular expenditure.
4. Accounts and Supervision of Monies. To keep all general accounts of City Government and of the respective departments, officers, boards, commissions and institutions thereof including dedicated revenue accounts, special purpose accounts, bond or borrowing proceeds, or any other monies whatsoever; and to have accounting control over all expenditures and payments to ensure that the cost center budget appropriations are not exceeded.

(D) Division of Administration.

1. Conduct Collections and Payments. To conduct all activities necessary and appropriate to see to the collection of all monies due and owing the City from whatever source and for making such expenditures as are necessary and appropriate and in accordance with budgetary requirements; to provide staff and staff support for these activities.
2. Financial Reports. To make all necessary financial reports on a regular basis in such form as is approved by the City Council and City Manager indicating the financial condition of the City of Bath.
3. Fiscal Year Report. To prepare for the City Manager and City Council as of the end of each fiscal year, a complete financial statement and report.
4. Fiscal Assistance. To provide fiscal assistance to all officers of the City regarding the proper management of the fiscal concerns of their respective offices; in connection with this assistance, to examine the books of each department from time to time and where appropriate to make recommendations with regard to proper form or procedure.
5. Annual Audits. To provide for an annual audit of all offices and departments of the City of Bath, said audit to be by an independent, outside auditing firm or agency.



6. Examination and Certification of Financial Contracts and Documents. To examine and approve documents by which the City Government incurs financial obligation, having previously ascertained that monies have been appropriated and allotted, and will be available when the obligation shall become due and payable.

7. Custodian of Financial Documents. To maintain custody of official bonds of the City, and all other contracts, notes, debts, choses in action, and any other documents which concern the finances of the City of Bath.

8. Other duties. To perform all other duties required by City Charter, City Ordinances, State Law or as may, from time to time, be requested by the City Manager and/or City Council.

## **Section 2-05. Records Department.**

(A) General Duties. The Records Department shall be responsible for the maintenance of all records, documents, writings or any other form of action or record with regard to the operation of City Government or in connection with any action taken by City Government, with the exception of those financial documents which are the province of the Finance Department.

(B) City Clerk. The head of the Records Department shall be the City Clerk. It shall be the Clerk's general duty, through the Clerk or the Clerk's designee(s), to safely keep all records required in the conduct of City business, to preserve those records and to reproduce them as is necessary and appropriate. The Clerk shall also be responsible for the conduct of business in the Clerk's Office and for those employees involved in such activities.

(C) Department Responsibilities. The Records Department shall have the following responsibilities:

1. Council Records, Clerk of Council. To be responsible for the recording, filing, indexing, safe keeping and reproduction of all proceedings of the Bath City Council; the City Clerk, or the Clerk's designee(s), shall serve as Clerk of the Council in order to perform these duties, and the Clerk shall perform such other duties of a like nature as may be required by the City Council.

2. Record Ordinances. To record in full, uniformly and permanently, all ordinances duly passed by the City Council of the City of Bath and to authenticate same.

3. Public Council Action. To publish as required by Charter or by Council action all ordinances and resolutions of the Council, and all other legal notices as required by law or ordinance.

4. Election Records. To keep and maintain all election records and have custody of all property used in connection with elections.

5. Vital Statistics. To prepare, attest and report on, such vital statistics of the City of Bath as are required by law or ordinance.

6. Notice of Expiration of Term. To notify the appointing authority of the impending expiration of the term of office of a member of any board or commission, said notice to be given at least thirty (30) days before such expiration.

7. Official Seal. To be the custodian of the official seal of the City of Bath.

8. Other Records. To keep and maintain and when necessary reproduce all other records or documents of whatever kind and nature as may be deemed necessary and appropriate for the conduct of Governmental business, as determined by the City Council, or as may be required by law or ordinance.

9. Other Duties. To perform all other duties as may be required by City Charter, City Ordinance, State Law or as may, from time to time, be requested by the City Manager or the City Council.

## **Section 2-06. Assessment Department.**

(A) General Duties. The Assessment Department shall be responsible for the assessment of all properties and the computation of all data necessary and appropriate to such assessment, together with the production of all records, notices, assessment reports, tax rolls, commitments, reports, information and other documentation as may be required or appropriate.

(B) Assessor. The Assessor shall act as the head of the Assessment Department and shall be appointed and serve in accordance with Section 403 of the Charter of the City of Bath. It shall be his duty to attend to all assessment requirements and to supervise all assessment activities and shall perform all other duties required by City Charter, City Ordinances, State Law (Title 36, M.R.S.A.) or as may, from time to time, be requested of him by the City Manager and/or City Council.

(C) Department Responsibilities. The Assessment Department shall have the following responsibilities:

1. Assessment. To conduct the assessment of property in or relating to the City of Bath as required by law; to meet, in conducting such assessment activities, minimum assessment ratios and minimum assessment ratings as required by 36 M.R.S.A. Section 327.

2. Records. To maintain accurately and in sufficient detail all records necessary and appropriate to the assessment of properties in or relating to the City of Bath and to provide opportunity for the public to review such records on a reasonable basis; to keep and maintain and when necessary reproduce all other records or documents of whatever kind and nature as may be deemed necessary and appropriate for assessment purposes as determined by the City Council or as may be required by Law or Ordinance.

3. Official Reports and Documents. To develop and establish official documents such as the City of Bath annual tax commitment, tax rolls, listings of City owned property, exempt property, City of Bath tax maps, and other official records as are required by City Ordinance or State Law.

4. Other Duties. To perform all other duties as may be required by City Charter, City Ordinance, State Law or as may, from time to time, be requested by the City Manager and/or City Council.

## **Section 2-07. Codes Department.**

(A) General Duties. The Codes Department shall be responsible for the administration of all Land Use, Building and Housing Codes and related Police Power Ordinances and regulations enacted by the City of Bath or imposed by State Law.

(B) Codes Enforcement Officer. The Head of the Codes Department shall be the Codes Enforcement Officer. It shall be the Codes Enforcement Officer's general duty, personally or through a designee(s), to administer all Land Use Development, Housing, Building or related Codes, Regulations or State requirements and to conduct inspections as reasonably necessary and appropriate to ensure compliance with applicable Codes, Laws or Regulations; he shall be responsible for all record keeping, receipt and processing of applications and the maintaining of permanent records; the Codes Enforcement Officer shall also be responsible for enforcement of all Codes under his jurisdiction, and shall perform such other duties as may be required under State Law or Regulation, City Charter or City Code or as may from time to time be requested by the City Manager and/or City Council.

(C) Division of Building Codes/Inspection. The Division of Buildings Codes/Inspection shall have the following responsibilities:

1. Administration. To administer the City of Bath Land Use Code including the Flood Hazard Provisions, as well as City Housing Building Codes, Fire Prevention Code and Sign Ordinance, and such other Codes and Provisions as have been or may be adopted relating to building activities or occupancy; and to administer all applicable State Laws, Rules or Regulations.

2. Applications. To receive applications for building activity or other development required by any above captioned Codes; to determine whether applications meet Code requirements and to render decisions thereon, or where appropriate, to refer the application to the appropriate City Board for further determination and to maintain all records regarding to applications and decisions thereon as rendered by this Department.

3. Inspections. To conduct inspections whether in response to inquiries or complaints, at the Inspector's initiative, or in accordance with a program of systematic inspection and enforcement, or as otherwise may be deemed necessary and appropriate, to assure compliance with applicable Codes, Regulations and Law; to maintain records of such inspection, to provide notices of violations where same are found to the owner of record of the property, and to maintain such other records of inspection and inspection reports as are necessary and appropriate.

4. Public Assistance. To provide assistance to the public in applying for permits and complying with permit and Codes requirements and to prepare and disseminate educational and explanatory information related to such requirements.

5. Ordinance and Regulation Revision. To review and make recommendations on Amendments or changes to applicable Ordinances and procedures.

(D) Division of Health. The Division of Health shall have the following responsibilities:

1. Health Officer. The Codes Enforcement Officer, or his designee(s), shall serve as the Health Officer for the City of Bath.
2. Administration. To be responsible for the administration of all health related portions of City Codes or applicable State Law or Regulation.
3. Enforcement. To enforce all health provisions of City Codes, State Law or Regulations; to conduct such inspections whether in response to inquiries or complaints or at the Inspector's initiative, or according to a program of systematic inspection and enforcement, to assure compliance with all health-related Code, regulatory or legal provisions or State Law Provisions; to issue notices of violations where necessary and appropriate and to refer violations for corrective action, and/or the imposition of penalty, as permitted under City Ordinance, State Law or Regulation.

(E) Division of Plumbing, Sewers and Electrical. The Division of plumbing, Sewers and Electrical shall have the following responsibilities:

1. Administration. To administer all Codes Provisions, State Laws and Regulations referring to plumbing, sewer or electrical work or installation within the City of Bath.
2. Other Duties. To perform such other duties, in relation to Plumbing, Sewer and Electrical Code Regulations and State Law, as are set forth with respect to Building Codes in Sections D (1) through (5) above.

## **Section 2-08. General Assistance Department.**

(A) General Duties. The General Assistance Department shall be responsible for administering the City of Bath General Assistance Programs and for the maintenance of all records, documents, writings or any other form of action taken in regard to General Assistance.

(B) General Assistance Administrator. The head of the General Assistance Department shall be the General Assistance Administrator. The General Assistance Administrator shall be responsible, through the Administrator or designee(s), to administer all aspects of public assistance for the City of Bath and to maintain all records as required or appropriate in the rendering of such public assistance, and shall perform such other duties as may be required under State Law or Regulation, City Charter or City Code or as may **from** time to time **be** requested by the City Manager and/or City Council.

(C) Department Responsibilities. The General Assistance Department shall have the following responsibilities:

1. Administration. To administer, in accordance with the General Assistance Ordinance of the City of Bath, and applicable State Law, Rules, and Regulations, the General Assistance Program of the City of Bath.

2. Applications. To provide applications and appropriate forms for public assistance clients to apply for public assistance; to assist where appropriate in the completion of those applications.
3. Information. To conduct interviews in private with the applicant and to garner information from such other sources as is permitted under Welfare Rules and Regulations, to determine the eligibility of each applicant for public assistance and the level of that eligibility.
4. Decision and Reports. To render in each case a written report of acceptance or denial of public assistance, and to maintain such other reports, writings and documents as are necessary and appropriate for the administration of Public Assistance in the City of Bath and to comply with reporting requirements of City of Bath General Assistance Ordinance, applicable State Regulations, Rules and Laws.

## **Section 2-09. Wastewater Treatment Plant Department.**

(A) General Duties. The Wastewater Treatment plant Department shall be responsible for the operation and maintenance of the City of Bath Wastewater Treatment plant Facility and for all pumping stations associated therewith and for the maintenance of all necessary and appropriate records, documents or writings in connection with the operations and maintenance of the Facility.

(B) Superintendent of the Wastewater Treatment plant. The head of the wastewater Treatment Plant Department shall be the Superintendent of the Wastewater Treatment plant. It shall be the Superintendent's duty, through the Superintendent or designee(s), to perform all activities necessary and appropriate to the proper functioning and maintenance of the City of Bath Wastewater Treatment Plant Facility, and associated pumping stations, in accordance with sound operating procedure and applicable State Law, Regulations and Licensing Requirements, and to perform such other duties as may be required under State Law or Regulation, City Charter or City Code or as may from time to time be requested by the City Manager and/or City Council.

(C) Department Responsibilities. The Wastewater Treatment Plant Department shall have the following responsibilities:

1. Operation. To operate the Bath Wastewater Treatment plant Facility together with pumping stations and all other installations associated with the Plant in a proper and effective manner in accordance with applicable Rules and Regulations.
2. Reports. To maintain such records and information as is necessary and appropriate and to render such reports as are required by law and for the proper operation and maintenance of the Facility.

## **Section 2-10. Public Works Department**

(A) General Duties. The Public Works Department shall be responsible for conducting all matters relating to construction, management, maintenance and operation of the physical properties of the City, with the exception of those properties designated to be under the control of the Recreation Department and School properties. This shall specifically include all public streets and sidewalks, City sewer and storm water systems (with the exception of pumping stations and the Treatment Plant, which are under jurisdiction of the Wastewater Treatment Plant Department), the solid waste facility, and all forestry activities.

(B) Public Works Director. The Public Works Director shall be the head of the Public Works Department and it shall be the Director's duty to attend to all public works aspects of City Government and to supervise all public works activities within the City, subject to the direction of the City Manager. The Public Works Director shall specifically be responsible for construction, management, maintenance and operation of the public street and sidewalks, sewerage and storm water systems, the solid waste site, and all forestry operations; the Public Works Director shall perform all duties required of him by City Charter, City Ordinances, State Law, or as may from time to time, be requested of him by the City Manager and/or City Council.

(C) Division of Street and Sidewalks. It shall be the function of the Division of Streets and Sidewalks, under the Direction of the Public Works Director and subject to the supervision of the City Manager, as follows:

1. Streets and Sidewalks. To maintain, repair and improve City streets and sidewalks in order to facilitate the safe and convenient passage of vehicles and pedestrians.
2. Signing. To provide, install and maintain such signing as may be required to advise the public of City Ordinances effecting the passage and parking of vehicles and usage of the public ways by pedestrians and vehicles.
3. Snow Removal. To provide snow removal, sanding, salting and plowing activities during winter storm conditions.

(D) Division of Storm Water and Sewers. It shall be the function of the Division of Storm water and Sewers, under the direction of the Public Works Director, and subject to the supervision of the City Manager, as follows:

1. Sewers. To construct, operate, maintain, replace, repair and improve the City sewerage collection systems which shall consist of all sewer pipes, catch basins and mains not privately owned or under the jurisdiction of the Wastewater Treatment plant.
2. Storm Water Systems. To construct, operate, maintain, improve and repair the City's storm water drainage system in order to provide adequate drainage on all streets and sidewalks.



(E) Division of Solid Waste. It shall be the function of the Division of Solid Waste, under the direction of the Public Works Director, and subject to the supervision of the City Manager, as follows:

1. Solid Waste Site. To administer all activities necessary and appropriate to the operation of the City's solid waste site in accordance with applicable State and Local Laws, Ordinances, Rules, Regulations and Standards.
2. Solid Waste. To be responsible for the administration of all solid waste matters within the City of Bath in accordance with Chapter 12 of the Code of the City of Bath and all other applicable Provisions of State Law, other City Ordinances, or applicable Rules and Regulations.

(F) Division of Forestry. It shall be the function of the Division of Forestry, under the direction of the Public Works Director, and subject to the supervision of the City Manager, as follows:

1. Forestry Services. To provide such services as may be necessary and appropriate for the benefit of the City concerning all trees and tree growth located on public ways or City property or encroaching in any way on said public ways.
2. Arborist Services. To provide, where appropriate, arborist services for the healthy maintenance and continuation of tree growth on public property within the City of Bath.

## **Section 2-11. Cemeteries, Parks and Recreation Department**

(A) General Duties. The Cemeteries, Parks and Recreation Department shall be responsible for operating, maintaining, repairing and improving all City cemeteries and parks; this will include the administration of City cemeteries and burial activities in accordance with Chapter 6 of the Code of the City of Bath and in accordance with applicable State Law. The Cemeteries, Parks and Recreation Department shall also be responsible for the administration of all recreational programs sponsored by the City of Bath and for the administration, use and maintenance of all recreational facilities.

(B) Director of Cemeteries, Parks and Recreation. The Director of Cemeteries, Parks and Recreation shall act as head of the Cemeteries, Parks and Recreation Department and it shall be the Director's duty to attend to all City cemetery and park facilities, to keep all records required and necessary regarding cemetery activities, and preserve those records and to reproduce them as necessary and appropriate, and shall perform such other duties as may be required under State Law or Regulation, City Charter or City Code or as may from time to time be requested by the City Manager and/or City Council. The Director shall also plan, promote, organize and supervise a comprehensive municipal recreation program and administer the same in the interest of the entire community, together with such other duties as may be required under State Law or Regulation, City Charter or City Code or as may from time to time be requested by the City Manager and/or City Council. The Director, in administering the municipal recreation program, shall be advised of the recreational policies as determined by the Recreation Commission.

(C) Division of Cemeteries and Parks Responsibilities. The Division of Cemeteries and Parks shall have the following responsibilities:

1. Cemeteries. To develop, maintain and operate City cemetery areas in accordance with Chapter 6 of the Code of the City of Bath, and to provide for the sale of cemetery lots, to keep records with regard to burials thereon and to perform such other functions as are necessary to the operation of the City's cemeteries.

2. Parks. To maintain and improve City park areas for the use of the general public and for such special usages as may be permitted by City Council and to monitor these uses and maintain and establish park areas in a safe and usable condition.

(D) Division of Recreation Responsibilities. The Division of Recreation shall have the following responsibilities:

1. Administration. To administer the comprehensive municipal recreation program in accordance with the Division Budget as approved by City Council and policy, rules, regulations, fees and charges as approved by the Recreation Commission.

2. Maintenance and Improvement of Facilities. To maintain in good and safe condition and to improve the condition of all recreational areas so designated by order of the Bath City Council.

3. Supervision and Scheduling. The Director shall supervise the recreational use and scheduling of playgrounds, playfields, recreational centers, ball diamonds and such other recreational areas and facilities as may be made available to carry out the City's comprehensive recreation program and accommodate school activities.

4. Conduct Community Activity. To conduct and supervise any form of recreational, cultural or social activity that will employ the leisure time of the citizens in a wholesome and constructive manner.

(E) Designation of Recreational Facilities. The City Council shall designate, by order, all facilities used for recreational purposes in the City of Bath and which shall be under the supervision of the Director. This designation of a particular property shall continue in effect until abrogated, altered, amended or modified by subsequent order of the Council. Nothing herein however shall be construed as delegating to the Director any authority to dispose of recreational property.

(F) Funding-Special Purpose Fund. The Recreation Department both in terms of revenues and expenditures, shall be designated as a special purpose fund and all revenues and expenses relating to Department activities shall be accounted for as part of this fund. All revenues collected related to Department programs and activities shall be dedicated to this fund for the purpose of funding its expenditures. The Annual Budget, on a line item basis consistent with other City Departments, shall be developed by the Director and shall be submitted to the City Manager, along with revenue estimates and sources of revenue, at least thirty (30) days prior to the date the Manager is required to submit his Annual Budget to the City Council. Funds appropriated in the City's Annual Budget as the City's share for subsidizing Recreation Department activities shall be transferred to the special purpose fund as a supporting revenue. All fees, charges and other revenues shall be credited directly to the special purpose fund and may be expended, with the approval of the Commission in accordance with the Department's Annual Budget. Additional revenues, over and above those estimated in the Budget, may be expended to offset shortfalls of revenue in other areas,



or to fund new activities or programs. All revenues, however, shall initially be applied to costs of operations. Items for salaries of Department personnel included in the Department's Budget shall be finally set by City Council as part of the annually approved City pay plan. Any balances in any accounts shall be carried forward from year to year and shall not lapse to surplus. [Ord. 94-5]

## **Section 2-12. Recreation Commission**

1. Membership. A Recreation Commission consisting of seven (7) members shall be appointed by the Council. One (1) of the seven (7) members, so appointed, shall be a member of the Bath City Council. Each member, so appointed, shall serve for a term of three (3) years, with the exception of the Council member who shall serve for a one (1) year term coinciding with the Council year. This Commission is authorized to conduct its business regardless of any vacancies as long as a quorum exist at any meeting.

2. Duties. The Recreation Commission shall advise the Director regarding the recreational activities conducted on all grounds and areas by the City used for recreational purposes. The Commission shall establish policy regarding the appropriate use of recreational facilities, and shall approve rules and regulations regarding such use, and fees and charges for such use. The Commission shall review a Budget to fund Department activities in accordance with the special purpose fund noted above and make recommendations to the Director.

3. Commission Meetings and Quorum. The Commission shall meet monthly in order to perform such duties as required, and at such other times as becomes necessary and appropriate, said meetings to be called by the Chairman, or in his absence, the Director. The Commission may suspend any regular monthly meeting when, in the judgment of the Chairman or a majority of the Board, no action is required of the Commission. The Commission shall adopt its own rules of procedure and four (4) members attending any regular or special meeting shall constitute a quorum. Any member who does not attend fifty percent (50%) of the Recreation Commission meetings within any six (6) month period, unless excused by the Chairman of the Commission, may be removed by City Council.

This Ordinance shall become effective July 1, 2007.

## **Section 2-13. Planning and Community Development Department**

(A) General Duties. The Planning and Community Development Department shall be responsible for the administration of all planning activities and development activities within and for the City of Bath.

(B) Director of Planning and Community Development. The head of the Planning and Community Development Department shall be the Planning and Community Development Director. It shall be the Planning and Community Development Director's general duty to direct and supervise planning activities and to direct, supervise and be involved in such development activities as the City Council deems appropriate, and shall perform such other duties as may be required under State Law or Regulation, City Charter or City Code or as may from time to time be requested by the City Manager and/or City Council.

(C) Department Responsibilities. The Planning and Community Development Department shall have the following responsibilities:

1. Staff Function. To provide staff services to the Bath Planning Board, Bath Zoning Board of Appeals and such other boards, departments or agencies within or without City Government as may be necessary and appropriate to carry out the planning and development activities of the City.
2. Code Activities. To provide staff support services and assistance and coordination of the effort in maintaining, updating and amending the City of Bath's Comprehensive Plan, its Land Use Ordinances and all other Code Provisions dealing with planning and developmental issues.
3. Relations With Other Agencies. To maintain liaison with other local, regional and state, public, quasi-public, or private agencies including, but not limited to, housing authorities, community action agencies, and regional planning and development agencies.
4. Planning Functions. To organize, direct and coordinate the gathering and analysis of social, economic and engineering data necessary or useful in the conduct of planning and/or developmental activities; also to assist and/or coordinate with the program and project planning of other City departments, boards, agencies or commissions.
5. Program Applications. To assist in the preparation of federal or state grant in aid program applications and to perform such functions as are necessary and appropriate in the administration of such programs.
6. Development Activities. To coordinate such community development activities as may be of benefit to the City.
7. Public Information. To act as a source of information to the public, to other agencies, boards, commissions or departments relative to City Land Use and Building Codes and to coordinate applications with various City officials, commissions and boards where such is necessary and appropriate.

## **Section 2-14. Police Department**

(A) General Duties. The Police Department shall be responsible for all law enforcement activities within the City of Bath, for coordination of the communications function and for all harbormaster activities.

(B) Police Chief. The head of the Police Department shall be the Chief of Police. It shall be the Chief of Police's general duty, personally or through a designee(s), to administer all functions of the Police Department, direct the City's law enforcement effort, supervise its communications effort and direct activities with regard to the City's harbor; the Chief of Police shall be responsible for all record keeping, processing of complaints and all other recording requirements necessary to the police, communication and harbormaster functions; the Chief of Police shall direct the police work of the City, formulate departmental policies, regulations and goals and set program priorities, and shall perform such other duties as may be required under State Law or Regulation, City Charter or City Code or as may from time to time be requested by the City Manager and/or City Council.

(C) Division of Patrol and Investigation. The Division of Patrol and Investigation shall have the following responsibilities:

1. Patrol. To assign and administer the motor and foot patrol units and to direct their activities in the monitoring of traffic and general activities required for the enforcement and maintenance of law and order in the City, and to conduct preliminary investigations.
2. Investigation. To have charge of and conduct the investigation of crimes.
3. Evidence. To accumulate, prepare and preserve evidence used in the prosecution of criminal cases.
4. Crime Laboratory. To be responsible for the administration of the City's crime laboratory facilities.

(D) Division of Parking Control. The Division of Parking Control shall have the following responsibilities:

1. To administer the parking and control ordinances under Chapter 17 of the Code of the City of Bath and applicable State Laws regarding the parking and movement of vehicles and pedestrians.

(E) Communications Division. The Communications Division shall have the following responsibilities:

1. Communications Function. To provide a communications system, emergency and otherwise, involved with all police and fire department operations and to provide such other communication related services as may be deemed advisable or necessary by the City Manager.

(F) Harbormaster Division. The Harbormaster Division shall have the following responsibilities:

1. Rules and Regulations. To administer such rules and regulations, as well as ordinances and applicable state statutes, that may be applicable to the harbor of the City of Bath.
2. Information. To provide such information and public informational services as is deemed appropriate to enhance the public use and enjoyment of the Bath harbor facilities.

(G) Animal Control Division. The Animal Control Division shall have the following responsibilities:

1. Dogs. To administer all City Ordinances and applicable State Laws regarding the keeping and conduct of dogs within the City of Bath.
2. Animals. To administer all City Ordinances and applicable State Laws, Rules and Regulations regarding the conduct of animals within the City of Bath, to receive complaints regarding same, and investigate said complaints and where necessary to provide for the disposition of animals.

## **Section 2-15. Fire Department**

(A) General Duties. The Fire Department shall be responsible for the prevention of fires, the protection of lives and property against fires and other hazards, and to provide such emergency medical service/ambulance service as deemed appropriate by City Council.

(B) Fire Chief. The head of the Fire Department shall be the Fire Chief. It shall be the general duty of the Fire Chief to direct the activities of the Fire Department in the prevention of fires and the protection of lives and property against fire hazards or other hazards. The Fire Chief shall be authorized to make such Rules and Regulations and issue such orders not inconsistent with State Laws, City Charter and City Ordinances and to perform such other duties as may be required by State Law or Regulation, or City Ordinance, or as may from time to time be requested by the City Manager and/or City Council.

(C) Department Responsibilities. The Fire Department shall have the following responsibilities:

1. Municipal Fire Protection. The Municipality shall provide fire protection by any of the following means:

- a. Maintenance of a Municipal Fire Department as defined in 30 M.R.S.A. §3771(1).
- b. Support of an incorporated volunteer fire association as that term is defined in 30 M.R.S.A. §3771(3).
- c. Contracting with other Governmental Agencies or with private fire protection services.
- d. Any combination of the above.

(2) Emergency Medical/Ambulance Service. To provide such emergency medical service and/or ambulance service as may be deemed appropriate by Council.

(3) Equipment and Training. Where the City chooses to provide fire protection through a Municipal Fire Department and an emergency medical/ambulance service, to be responsible for the maintenance and care of all property and equipment used in delivery of these services and to provide proper training for those persons responsible for the efficient delivery of these services.

## **Section 2-16. Department of Education.**

(A) General Duties. The Department of Education shall be responsible for the administration of all public schools, public education and school properties within the City of Bath.

(B) Board of Education. The Board of Education, as established under Chapter 5 of the Charter of the City of Bath, shall be the superintending school committee for the Bath school system and it shall be their general duty to administer the school system in and for the City of Bath in conformance with the powers and duties designated under State Law.

(C) Superintendent of Schools. Pursuant to Section 508 of the Charter of the City of Bath, the Board of Education shall elect a Superintendent of Schools. It shall be the Superintendent's general duty to administer the Bath School Department pursuant to the direction of the School Board, and applicable State Law.

(D) Department Responsibilities. The Department of Education shall have the following responsibilities:

1. Public School Programs. To administer all public school programs for the benefit of the children and citizens of the City of Bath in accordance with applicable State Law, Rules and Regulations of the State of Maine Department of Education, and other applicable Laws, Ordinances, Rules and Regulations.
2. School Property. To be responsible for the establishment, upkeep, repair, maintenance and replacement of all school properties.
3. Special Education. To provide such special education instructions, facilities and programs as are necessary and appropriate to meet the needs of students and in conformity with applicable State Law, Rules and Regulations.
4. Support Services. To provide such support services as are necessary and appropriate for the efficient and effective delivery of general school services within and for the City of Bath.
5. Athletic and Co-Curricular. To provide athletic and co-curricular programs for the benefit of pupils attending the Bath School System, as deemed appropriate by the Bath Board of Education.
6. Transportation. To provide such transportation services as are necessary and appropriate to provide attendance at school sessions and school sponsored activities.
7. Other. To have the power and to be responsible for all other such school related activities as may be necessary and appropriate or required pursuant to State Law, Rules and Regulations of the Department of Education or otherwise.

Effective 10-14-92

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## **CHAPTER 3 ADVERTISING**

### **ARTICLE 1. RESERVED**

**3.101 - 3.200 Reserved**

### **ARTICLE 2. SIGNS**

#### **3.201 Purpose**

##### **I. Purpose.**

The purpose of this sign ordinance is to provide a set of regulations that balances the need to effective sign design control criteria consistent with what we describe as the "Heritage of Bath", with the need and right of individuals to display sign advertising for their business. In achieving this purpose, the following factors provide the foundation for this ordinance's development:

- A. The ordinance gives greater attention to the period detail of Bath experienced throughout this century, acknowledging the more diverse sign activity that existed during Bath's evolution into a small City;
- B. The ordinance reflects a more flexible approach for basic sign control parameters using scale and size of building to determine sign size and number, rather than specific square foot restrictions irrespective of scale; and
- C. With this flexible approach the ordinance then focuses in on basic aesthetic issues (sign type, texture, materials) as appropriate for specific zoning districts.

In molding all of these factors into one ordinance package, this sign ordinance embodies a proactive consensus that balances the interests of business, individual citizens and the community at large. That consensus, as its theme, is ultimately concerned with the long term aesthetic appearance of Bath as we move into the next century.

### **3.202 Compliance.**

**Compliance with this article required. No signs of any kind or nature shall be installed or placed on any premises or affixed to the outside of any structure in the city unless in accordance with this ordinance.**

### **3.203 Permits**

**I. Required: Permanent signs as specified in this article shall require a permit. An application for such permit shall be obtained from the Codes Enforcement Office. The Codes Enforcement Officer shall examine the application, insure that the proposed sign is in accordance with this ordinance and shall grant a permit. If the work authorized under a permit has not been completed within six (6) months after the date of issuance, the permit shall become null and void. (Also Sec. VII and IX.)**

**II. Permit fees: The permit fee shall be set by resolution of City Council.**

**III. Application content: Application for sign permits shall be made upon forms provided by the Codes Enforcement Officer, and shall contain at least the following:**

**A. Name, address and telephone number of the applicant.**

**B. Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected.**

**C. Details of the proposed sign, including at least the location.**

**D. Location of other signage on the property, and lighting.**

**E. Two drawings of the plans and specifications and method of construction and attachment to the building or location in the ground.**

**F. Name of person, firm, corporation or association installing the sign.**

**G. Any electrical permit required and issued for the sign.**

**IV. Existing signs. Permanent signs in existence prior to 6-3-87 and signs erected between 6-3-87 and the date of adoption of this ordinance that conform to the physical requirements of the 6-3-87 ordinance shall be considered legally existing signs and shall be grandfathered as of the date of the passage of this ordinance and may continue to be used in conformance with the terms of this article. The existing signs at The Inn of Bath; The Chocolate Church mural; Barbara T's Tanning Salon; and Frosty's Donuts, are grandfathered. Also, Sec. VII**



**V. Exemptions.** The following signs are not regulated by this article and require no sign permit: municipal and state road signs, highway and emergency signs and traffic control signals in accordance with the Manual On Uniform Traffic Control Devices. Responsibility for installation shall be left to the Department of Public Works.

The following regulated signs do not require a permit(unless otherwise specified), provided they are erected and maintained in accordance with the following specified requirements:

**A. Real Estate signs** which advertise the sale, rental or lease of the premises upon which said signs are located, which do not exceed six (6) square feet in area and where only one sign per premises is permitted, except that where a property borders two (2) or more streets, one (1) sign facing each street is permitted. Such sign shall be removed when the sale or rental is consummated.

**1. Banners** composed of a lightweight fabric or woven material displaying a for sale or for lease shall be limited to 30 square feet in size with a maximum of 10 feet in length in size and shall require a permit by the Codes Enforcement Officer. The display of such banner shall be permitted for 30 days, with one application for a 30 day renewal permitted. No permit shall be granted for more than 60 days in any 6 month period.

**B. One Development/construction Site Sign** denoting the architect, engineer, contractor or subcontractor to be placed upon a premises under construction, not exceeding sixteen (16) square feet in area. Subcontractors may also have a sign, not to exceed 6 square feet nor be on display for more than 10 days.

**C. Memorial signs or tablets** containing names of buildings or date of installation.

**D. Danger/safety signs** and such temporary, emergency or non-advertising signs necessary or approved by the City Council.

**E. Home street number or name of the occupant signs** for residential properties, or both, not exceeding one (1) square foot in area or resident's names and street numbers on mailboxes or the house.

**F. Flags and banners** across streets, highways, alleys, sidewalks or other public rights-of-way are permitted only for special occasions with the specific approval of the City Manager. The City Manager, prior to approval, shall be satisfied that the following criteria are met:

**G. The subject matter** displayed on the flag or banner shall reflect a community or civic oriented, non-profit, charitable or public purpose or event.

**2. The placement** of the flag or banner shall be in a manner not to affect the public use of the right-of-way or cause diminished visibility or other similar limitation.

- 3. The banner shall be limited to 30 consecutive days of display.**

**Any person aggrieved by denial or approval by the City Manager may appeal the Manager's decision to the City Council.**

**H. Flags having a generic logo or design and composed of a lightweight fabric or woven material, restricted to a maximum size of 3' x 5'. However, flags directly advertising a store name or product are not exempt from permitting and shall be included in the total sign area and items of information determination.**

**I. Banners composed of a lightweight fabric or woven material and secured to the side of a building, where the banner does not to exceed 3' x 10' in size, and is limited to 30 days of display.**

**1. Any Yard Sale sign, provided such sign shall not exceed 4 square feet and shall be removed within 2 days of being displayed.**

**J. Going out of business sign, where such activity has been approved by City Council. Said sign shall be limited to 60 days of display, unless renewed by City Council.**

**K. Tent or Truck Load Sales. There shall be no permit requirement provisions for tent or truck load sales provided that such an event does not last for more than 2 weeks and is not repeated more than 3 times in one year. Although a permit is not required for such activities, the Codes Enforcement Officer shall be notified of when the event will occur. Also See Sec. VI (13)**

**L. Ice Vending Machines. Ice Vending Machines are exempt from the provisions of this ordinance, including any internally lit signage denoting ice machines, provided that such signage does not note the name of the business.**

**M. Outdoor product dispensers/vending machines. Outdoor product dispensers/vending machines are permitted without a required permit subject to the following conditions:**

**1. In the C1 Zone and all residential zones as defined by the Land Use Code the maximum number of such machines installed after the date of this ordinance shall be 1 per establishment;**

**2. In the C2, C3, C4, and C5 zones, the maximum number of such machines installed after the date of this ordinance shall be 3 per establishment;**

**3. Internal lighting for such machines shall be exempt from these requirements.**

**N. Temporary Signs.** Temporary signs are permitted as freestanding signs, signs attached to buildings, or signs in windows, subject to the following: (6-1-11)

- 1. Size:** No temporary sign shall exceed sixteen (16) square feet.
- 2. Duration:**
  - (a) Generally:** No temporary signs shall be erected for a period longer than six (6) weeks, within a three (3) month period.
  - (b) Event Signs:** If the temporary sign is intended to advertise a particular event such as a sale, theatre production, or political election, then the sign may be erected six (6) weeks prior to the event and must be removed one (1) week after the conclusion of the event.
- 3. Location:** Where the sign is to be erected on private property, the person erecting the sign shall obtain the permission of the owner or appropriate agent of the private property. No such signs shall be posted or erected on any City of Bath property.

### **3.204 Definitions.**

**I. Sign:** The term "sign" shall mean any character, letter, figure, symbol, design, model, advertising device or combination of these used to attract attention or convey a message. Such displays are further defined as follows: (see also Sec. VI-(1))

**A. Freestanding sign:** A sign not attached to any building. (see also Sec IV-(3))

**B. Projecting sign:** A wall-mounted sign projecting from or perpendicular to the building surface.

**C. Parallel sign:** A wall-mounted sign parallel to the building surface projecting not more than six (6) inches from that surface.

**D. Applied sign:** A sign painted or applied to the exterior building surface or walls only, including all lettering and symbols together with any background coloring other than the natural color of the building. Applied signing may also include building construction materials as opposed to paint or application and can become part of the architectural treatment of the building or be decorative in nature.

**E. Awning or Canopy sign:** A cloth, other woven or wood material that either is permanently attached to a building and immobile or can be raised or retracted to a position against the building when not in use. also Sec. IV-(9)

**F. Marquee sign:** A sign on or attached to a permanent overhanging shelter other than a roof, attached to, supported by, and projecting from a building and providing protection from the elements as well as providing space for signage.

**G. Window Sign:** A sign painted or applied to the glass portion of a store front or window area.

**H. Multiple sign:** A group of signs clustered together in a single structure or compositional unit. Multiple signs are used to advertise several occupants of the same building or building complex.

**I. Iconic sign:** Those signs which are traditionally accepted pictorial symbols conveying the nature of the business shall be defined as iconic signs, such as barber pole, eyeglasses, boots, or mortar and pestle.

**J. Temporary signs:** Signs of a limited duration and purpose, which advertise sales, products, events, theatre productions, or similar activity, including political signs. Such signs are subject to the standards in Section 3.203(V)(N) Temporary Signs. (6-1-11)

**K. Wall Sign.** A sign, similar to a parallel sign, but placed flat against the wall and not projecting away from the structure more than 8".

**L. Historic marker:** A permanent sign whose purpose is to indicate some significant facts about the building or site. Plaques or historic markers are subject to review on an individual basis, but their area will not be figured in the allowable sign area for the building.

**M. Bulletin Showcase:** An enclosed sign typically with changeable copy.

**I. Total Sign Area.**

The total square footage of permitted sign area per building side is expressed as a percentage of the building street frontage times a specified height factor for each building side facing a public Right of Way or parking area, as described specifically for each zoning district. Total area covered per side facing a right of way, unless specifically exempted, includes all signs outlined in the above definitions and regulated for each zoning district. Signs exempt from the tabulation of total sign area include directional signs, hours of operation, credit card notification, temporary window signs, security information and or other similar information signs. Once calculated, an applicant may borrow from the total permissible sign area or number of signs permitted and place such signs on one or more building side not facing the public right of way. also Sec. IV-1(f)

**II. Temporary Signs-Changeable Copy.** Signs where copy within the signs changes with messages related to price and products.

**III. Sidewalk sandwich signs.** Signs consisting of one wooden sign not larger than a total of six (6) square feet per side with permanent lettering or with blackboard surface which opens in an inverted "v" and can be written upon on both sides. Sec. IV, (5).

### **3.205 General standards.**

#### **I. Signs generally:**

**A. No display sign shall be so placed as to obstruct or interfere with a required doorway or other required means of egress.**

**B. All signs shall be so constructed of metal, wood, or other approved material, except where specifically noted, and shall be so supported and braced such that it will not be adversely effected by the weather and shall be consistent with other appropriate building codes.**

**C. All electrical work on electrically illuminated signs shall conform with the requirements of the National Electric Code of the National Fire Protection Association.**

**D. Permanent sign content may include the official business name and limited additional information that explains the nature of the business or profession.**

**E. No person shall place signage on safety or fire protection equipment or structures. No regulated sign herein shall simulate traffic or pedestrian control signs.**

**F. Measurement of sign area. The area of a sign is determined by computing the space within the exterior limits of the face of a sign, whatever the geometrical shape, including the official business name, limited additional information and other associated details such as background, dead space, symbols or trademarks. Such area shall include supports, posts and the dead space between them, unless the area of the supports and posts exceeds twenty-five percent (25%) of the sign area as defined above. If the supports and posts exceed twenty-five (25%) of the defined area of the sign, then only the area in excess of twenty-five percent (25%) shall be included in the total area of the sign. Where a supporting structure bears more than one sign, all signs shall be considered one sign and be so measured. (Ord. 10/7/15)**

**G. Number of signs per business/building. The number of signs that are permitted per each building side facing a public right of way or public parking area, as described for each district. Signs exempt from the tabulation of items of information include directional signs, hours of operation, credit card notification, temporary window signs, security information and/or other similar information signs.**

**For a shopping center or plaza of 1000 square feet or more of connected building space, items of information per building side shall be applied to each business face as opposed to the entire building.**

**Also Section VI, Prohibited Signs**

## **II. Freestanding signs.**

- A. No freestanding sign shall have a sign area exceeding one hundred (100) square feet, except that identification or multiple signs for shopping centers may be one hundred and fifty (150) square feet as allowed in Section V.**
- B. No single dimension of a freestanding sign shall exceed sixteen (16) feet.**
- C. For traffic safety, any freestanding sign display area shall not block driver site distance. No freestanding sign shall be located within 20 feet of an intersection corner.**

## **IV. Illuminated signs. Illuminated signs are permitted, subject to the following conditions:**

- A. No sign shall be intermittently illuminated or of a traveling or flashing light type, except those devices which offer time and weather conditions.**
- B. Each steadily illuminated sign shall not exceed one hundred (100) square feet total sign area except for shopping centers signs which may be up to (150) square feet.**
- C. Sign illumination, in residential districts only, is permitted only between the hours of 7:00 a.m. and 11:00 p.m., except that signs of retail and service establishments may be illuminated during any hours these establishments are open to the public.**
- D. As a further point of clarification, illuminated signs are described as follows:**
  - 1. Internal Illumination: A light source that is concealed or contained within the sign and becomes visible in darkness through a translucent surface.**
  - 2. Indirect Illumination: A light source concealed or not seen directly.**
  - 3. Tube Lighting: A light source supplied by a tube that is not concealed and is filled with gasses, forming letters, symbols or other shapes. Such signs/lighting is allowed only on the inside of the building; that is, in the window. Any wording, logo or other representation that directly or indirectly names, advertises, or calls attention to a product line or trademark is prohibited. Tube illumination of the business is permitted. However, pre-existing non-conforming "product" tube lighting may be maintained and replaced with "produce" tube signs provided that the size and number are not larger or greater.**
- E. Sidewalk Sandwich Signs. Such signs may be permitted on the premises or on a public sidewalk in front of the premises provided that its position will not interfere with pedestrian or vehicle traffic or with emergency equipment. Such sign usage will be restricted to daylight hours only and is subject to the following:**

**1. Permits are required for such signs; such signs are to be included in the total sign area calculations.**

**2. Width of Sandwich signs on public sidewalks shall be restricted in width to 40% of the width of the sidewalk, where sidewalk width is at least 5 feet, and shall be no taller than 5 feet.**

**3. Any off-premise sandwich sign owner/permittee shall demonstrate that there is adequate liability insurance for the placement of that sign and indemnification for any accident that might occur as a result of that sign placement.**

**F. Private outdoor fixtures; visibility of light source restricted. In all zoning districts, for safety reasons, any private outdoor lighting fixtures, whether temporary or permanent, other than internal lighting, shall be so placed or hooded such that the light source shall not be directly visible to passing motorists or pedestrians.**

**G. Projection and height of signs for safety purposes. A sign may be installed flat against a wall or at an angle thereto, but no sign shall project more than three (3) feet beyond a line from the face of the building, nor within one (1) foot of the established curb line. The bottom of a sign, projecting from a wall, shall not be less than 7 feet above the sidewalk, alley or parking area.**

**H. Murals, artistic renderings or similar street graphics. Artistic renderings such as murals, paintings, wood carvings or similar art are not considered signs unless the piece is designed to convey a verbal message for the business in question.**

**I. Awning and Canopy Signs. Lettering shall be limited to the valances or gable end of the awning or canopy. Measurement of the sign size shall be restricted to the area of lettering and not the entire valance; this shall be included in the sign area calculations. In addition, the following shall apply:**

**1. No awning or canopy shall be any less than 7 feet above the ground surface nor may it extend more than eight (8) feet, or into a road right of way.**

**J. Service Station Canopies. Service Station Canopies shall be considered structures for sign calculation purposes.**

**K. Bulletin Showcase. The following requirements are applicable to bulletin showcase signs:**

**1. In the C1 Zone, Bulletin Showcase signs are permitted providing that the changeable copy is chalk on slate, specials on paper, menu samples, etc. and that the**



showcase is constructed of wood and glass materials or other traditional or simulated traditional materials. Such signs shall be exempted from sign area and items of information limitations and shall be limited in size to 20" by 30".

2. In all zones except the C1 and C4 zones, bulletin showcases are permitted. These may allow changes in lettering that are not of a flashing or intermittent nature or internally lit. The showcase shall be constructed of wood and glass or simulated materials, be consistent with sign area and items of information limitations and have letters no more than 2 inches in height. See special district conditions for additional limitations.

3. In the C4 zone, bulletin showcase signs may be of metal or plastic construction, must be included in the total signs area and items of information limitations, and shall not be of a flashing or intermittent material/lighting. Nor shall the lettering be internally lit.

L. Commercial Message Sign. Any wording, logo or other representation that directly or indirectly names, advertises or calls attention to a product line other than name of the business for which the sign is designed is permitted provided that the brand name is secondary to the business name and that the square footage dedicated to the brand name does not exceed the square footage dedicated to the establishment's name.

M. Brackets. Any use of metal, wire cable supports, braces and all bolts as part of the support used to attach signs to buildings shall be of galvanized or equal material, shall be consistent with the character of the sign and shall, in the C1 Zone in particular, be consistent with the character of the district.

3.206 The following standards are applicable to each zoning district in Bath:

I. C1 Zone.

Total Sign Area: 2 feet \* 75% per building face plus 2'x 3' for each upper level tenant.

Number of Signs: 2 per building face per occupant.

Permitted Signs: Parallel Sign, Window Signs, Wall Sign, Projecting Sign, Freestanding sign, Awning or Canopy, Applied Sign and Multiple sign.

Special Conditions:

A. Freestanding signs shall be no higher than ten feet and multiple signs shall be no higher than 6 feet.

B. Maximum area of any individual sign shall not exceed total sign area except that projecting signs shall not be larger than 10 square feet, freestanding shall be restricted to 5 maximum height and 4 feet maximum width, and multiple signs shall be no larger than 44"x18".



**C. Each upper floor tenant may display two Signs per building face and be included in a directional multiple sign at the entrances to the upper floors.**

**D. Materials. The following requirements are applied to the control of material use in the C1 Zone:**

**1. Materials such as plastic, natural aluminum, bulbous plastic letters, synthetics and gloss tile are prohibited unless they simulate natural materials.**

**2. Traditional materials, such as wood and brass or bronze are appropriate on historical buildings or in historic areas.**

**Design Factors: Surface color, colored light, indirect and tube lighting are permitted. Internally lighted signs are prohibited.**

**Special Graphics: Banners, flags, time and temperature, sidewalk sandwich signs, bulletin showcase, Iconic, Historic marker, and street number are permitted.**

**II. C2, C5 & I Districts.**

**Total Sign Area: 2 feet \* 75% per building face plus 2'x 3' for each upper level tenant**

**Number of Signs: 2 per building face**

**Permitted Signs: Parallel Sign, Window Signs, Wall Sign, Projecting Sign, Awning or Canopy, Applied Sign and Multiple sign.**

**Special Conditions:**

**A. All permitted signs shall be below the second floor level except multiple signs shall be no higher than 6 feet.**

**B. Maximum area of any individual sign shall not exceed total sign area except that projecting signs shall not be larger than 10 square feet and multiple signs shall be no larger than 44"x18".**

**C. Each occupant in an upper level of a building may be included in a multiple sign at the entrance to their building. One sign per business above the second floor is permitted and shall be restricted to 2' by 3' in size.**

**D. No projecting sign shall be mounted above the second story window of a building unless it is determined that from a safety or structural perspective, that no reasonable alternative exists.**

**Design Factors: Surface color, colored light, indirect and tube lighting are permitted. Internally lighted signs are prohibited.**

**Special Graphics:** Banners, flags, time and temperature, sidewalk sandwich signs, bulletin showcase, Iconic, Historic marker, and street number are permitted.

**III. C3 District;** lots in the C2 District, which abut Congress Avenue,; and other lots in the C2 District, if the principal building is no closer than 250 feet to the street that provides access to the site.

**Total Sign Area:** 4 feet \* 75% per building face.

**Number of Signs:** 4 per building face or occupant where there are multiple first floor occupants.

**Permitted Signs:** Parallel Sign, Window Signs, Wall Sign, Projecting Sign, Awning or Canopy, Applied Sign, Freestanding Sign, and Multiple Sign.

**Special Conditions:**

**A.** All permitted signs shall be below the second floor level except freestanding or multiple signs shall be no higher than 20 feet.

**B.** Maximum area of any individual sign shall not exceed total sign area except that projecting and free standing signs shall not be larger than 100 square feet and multiple signs shall be no larger than 150 square feet.

**C.** No projecting sign shall be mounted above the second story window of a building unless it is determined that from a safety or structural perspective that no reasonable alternative exists.

**D. Setback.** Freestanding signs are permitted only where a building(s) is set back forty (40) feet or more from the front property line. One (1) free-standing sign per individual building is permitted. Any such free-standing sign may be located within the front yard space. Multiple signs are permitted for shopping centers having at least 1000 square feet in floor space, consisting of five (5) or more separate businesses and having a continuous street frontage of at least 200 feet.

**E.** Signs advertising the acts or features to be given in a theater may be displayed on permanent frames erected on theater buildings or as a bulletin board sign in accordance with the provisions of this article as to permitted status, size and location; provided, that the bottom of any such frame erected flat against a wall may be not less than eight (8) feet above the sidewalk, alley or parking area; provided further, that when the area of any such frame facing a street, alley or parking area does not exceed 24 square feet and the area of all such frames facing such street, alley or parking area does not exceed 48 square feet, the area of the signs displayed thereon shall not be included in determining the total area of signs erected or displayed.

**Design Factors:** Surface color, colored light, internal, indirect and tube lighting are

permitted.

**Special Graphics:** Banners, flags, time and temperature, bulletin showcase, Iconic, Historic marker, service station canopy signs and street number are permitted.

#### **IV. C4 District.**

**Total Sign Area:** 4 feet \* 75% per building face.

**Number of Signs:** 4 per building face or occupant where there are multiple first floor occupants.

**Permitted Signs:** Parallel Sign, Window Signs, Wall Sign, Projecting Sign, Awning or Canopy, Applied Sign, Freestanding Sign, and Multiple Sign.

**Special Conditions:**

**A.** All permitted signs shall be below the second floor level except freestanding or multiple signs shall be no higher than 25 feet.

**B.** Maximum area of any individual sign shall not exceed total sign area except that projecting free standing signs shall not be larger than 100 square feet and multiple signs shall be no larger than 150 square feet.

**C.** No projecting sign shall be mounted above the second story window of a building unless it is determined that from a safety or structural perspective, that there exist no reasonable alternative.

**D. Setback.** Freestanding or multiple signs are permitted only where a building(s) is set back forty (40) feet or more from the front property line. One (1) free-standing sign per individual building is permitted. Any such free-standing sign may be located within the front yard space. One Multiple sign per Center is permitted for shopping centers having at least 1000 square feet in floor space, consisting of five (5) or more separate businesses and having a continuous street frontage of at least 200 feet.

**E.** Signs advertising the acts or features to be given in a theater may be displayed on permanent frames erected on theater buildings or as a bulletin board sign in accordance with the provisions of this article as to permitted status, size and location; provided, that the bottom of any such frame erected flat against a wall may be not less than eight (8) feet above the sidewalk, alley or parking area; provided further, that when the area of any such frame facing a street, alley or parking area does not exceed 24 square feet and the area of all such frames facing such street, alley or parking area does not exceed 48 square feet, the area of the signs displayed thereon shall not be included in determining the total area of signs erected or displayed.

**Design Factors:** Surface color, colored light, internal, indirect and tube lighting are permitted.

**Special Graphics:** Banners, flags, time and temperature, bulletin showcase, Iconic, Historic marker, service center canopy signs and street numbers are permitted.

**V. All Residential zones as defined by the Land Use Code.**

**Total Sign Area:** 6 square feet

**Number of Signs:** 1 per assessment unit

**Permitted Signs:** Parallel Sign, Window Signs, Wall Sign, Projecting Signs, and Freestanding Signs.

**Special Conditions:**

**A. All permitted signs shall be below the second floor level, except freestanding signs which shall be no higher than 6 feet.**

**B. Maximum area of any individual sign shall not exceed total sign area.**

**C. Materials.** Materials such as plastic, natural aluminum, bulbous plastic letters, synthetics and gloss tile are prohibited unless they simulate natural materials. Traditional or natural materials, such as wood and glass are permitted.

**D. One (1) sign identifying an accessory studio or professional office in the dwelling or on the premises, or identifying other permitted accessory uses, including home occupations.**

**E. One (1) bulletin showcase for a permitted nonresidential building or use, not more than six (6) square feet of signboard area. For churches and institutions, two (2) bulletin showcases are permitted for each site. Each such church or institution sign shall be no more than ten (10) square feet of signboard area.**

**F. A sign will be permitted to advertise a legal subdivision site while construction or selling of completed homes is under way. No such sign shall exceed twelve (12) square feet. No sign shall be permitted after three (3) years from the date of issue of the first building permit or after sale of the last lot, whichever is earliest, unless a different time frame is approved by the Planning Board.**

**Design Factors:** Surface color and indirect lighting are permitted. Tube lit and Internally lighted signs are prohibited.

**Special Graphics:** Flags, bulletin showcase, historic marker, and street number are permitted.

### **3.207 Sign Types Prohibited**

**The following sign types are prohibited in the City of Bath:**

**I. Off premises signs:** A sign that advertises activities, goods, products, etc. that are available elsewhere than within the building or on the lot where the sign is located, except as permitted in Section 3.209 – Wayfinding, and 3.210 Advertising on City of Bath Recreation Department Facilities. (5/7/03)

**II. Billboards:** A free-standing or roof mounted sign, either on or off the premises of billboard or sign structure.

**III. Roof signs:** A sign installed, constructed or maintained upon or over the roof of any building, or above the cornice line, whichever is lower. Any sign which extends wholly or in part above exterior walls, which is located in front of or on any roof surface, or which is located wholly or in part above the highest point of a roof. Painting on any roof as a means of advertising or direction is prohibited.

**IV. Flashing, rotating or animated signs.** This includes signs with visible moving, revolving or rotating parts; visible mechanical movement of any description; or other apparent visible movement achieved by electrical, electronic, or mechanical means, except for time-temperature-date signs, and gauges/dials etc. which may be animated to the extent necessary to display correct measurement.

**V. Signs with optical illusion of movement by means of design which present a pattern capable of reversible perspective, giving the illusion of motion or changing of copy, are prohibited.**

**VI. Signs which incorporate projected images, emit any sound which is intended to attract attention, or involve the use of live animals.**

**VII. Signs or other advertising structure incorporating any obscene material as defined in Section 5-40.1 of the Code of the City of Bath.**

**VIII. Portable or mobile marquee type signs.**

**IX. Vehicular and non-vehicular signs, where vehicles are positioned such that are being utilized as on or off-site signs to advertise a particular business.**

**X. Permanent signs incorporating chemical/florescent colors other than tube lighting.**

### **3.208 Maintenance, Obsolescence and Removal**

**I. Review of existing signs.** The Office of Codes and Planning shall keep an up to date pictorial record for all commercial signage associated with each business. Each sign shall be reviewed for safety, condition, appearance and consistency with legal approvals/grandfathered status from the City.

**II. Permit revocable at any time:** It is the responsibility of the business owner to insure that approved signs, whether grandfathered or by permit, shall be kept in good repair and in safe condition. The Codes Enforcement Officer shall give written notice to the business and/or building owner where there is disrepair or an unsafe condition. If the needed improvements are not made within 10 days of the notice, such sign or other advertising structure may be removed or altered to comply with these codes by the Codes Enforcement Officer at the expense of the permittee or owner of the property upon which it is located. The Codes Officer may relax the 10 day provision, provided that the delay is related to timing for the repair.

**III. Conformance with the provisions of this ordinance:** Where the Codes Enforcement Officer finds that a sign must be removed and/or replaced with a new sign, said owner/applicant shall bring the sign into conformance with these provisions. Failure to do so will subject the applicant to penalties consistent with Maine State law and the Ordinances of the City of Bath.

**IV. Obsolete signs:** A sign which ceases to advertise a bona fide business conducted or product sold on the premises after three (3) months from the close of business shall be removed upon notification to the building owner from the Codes Enforcement Officer. If the sign is not removed, the Codes Enforcement Officer shall have it removed. The owner of the property on which the sign is located is liable for the costs of removal, which costs may be assessed and collected in any same manner available under law.

**V. Nonconforming Signs and change of name:** Where an existing sign is non-conforming, changes in sign titles shall require that the sign be brought into compliance with these regulations.

### **3.209 Wayfinding**

**I.** Except as permitted in II. Below, all off-premises, directional signs must conform to the location and design standards of the Bath Wayfinding System adopted, and amended from time to time, by City Council Resolution.

**II.** The Codes Enforcement Office may approve independent directional signs for a business or organization provided the following criteria are met:

**A.** The business or organization must be located one half mile or more outside the Downtown Commercial (C1) Zoning District.

**B.** The business or organization is permitted more than one such sign only if the additional sign locations are associated with an intersection or directional change;

**C.** The cost of construction, placement and ongoing maintenance is borne by the business or organization.

- D.** A business or organization located within the one-half-mile- designation area may apply for a waiver for the installation of an independent sign subject to the conditions of this article.
- E.** The design of the sign must meet the standards adopted by City Council Resolution.
1. 4 feet by 12 inches in size. (12/18/02)
  2. Constructed to Maine DOT standards.
  3. Painted with a dark blue background with a red border, and ivory letters.
  4. Be mounted on a black post. (09/04/02)
- F.** Signs for Goods and Services in the Downtown (6-1-11)

The City may erect, or have erected, signs that indicate the direction to goods and services, which are offered for sale in the downtown, provided the following standards are met:

1. The signs are erected on the sidewalk near the corner of Centre and Front Streets and near the corner of Front and Elm Streets near the corner of Vine and Water Streets and near the corner of Elm and Water Streets.
2. The signs do not block sight distance for pedestrians or motorists.
3. The signs meet the requirements of 23 MRSA, Sections 1901 through 1925 (Maine Traveler Information Services Act).
4. The signs are Sidewalk Sandwich Signs, as defined in Section 3.204.
5. The City Council must approve the design and colors of the signs.
6. The City Council may approve additional locations.

**3.210 Advertising on City of Bath Recreation Department Facilities.(5/7/03)**

- I.** Signs are allowed on certain City of Bath Recreation Department Facilities with the approval in advance of the Recreation Commission and subject to the following restrictions:
- A.** Location: Signs may be located only on the following facilities:
1. Chain link fencing, facing the playing area, except backstops, at Legion, Kelley, McMann, Kimball, and Hawkes fields.
  2. The north side of the Congress Avenue basketball and tennis court fencing, facing Kelley Field.
- B.** Size Limitation: No sign shall be larger than 32 square feet and two or more signs may not be connected to provide a larger square footage.
- C.** Text and Contents: The information on the sign shall refer only to the business name, address, company logo, and identifying information as to how the enterprise can be accessed, such as telephone numbers, faxes, e-mails etc. The text of the sign may not advertise any specific good, product, activity or service.

### **3.211 Administrative Appeals and Variances**

#### **I. Administrative Appeals.**

**The Zoning Board of Appeals shall hear and decide matters where written appeal by an aggrieved party alleges an error in any interpretation, order, requirement, decision or determination of the Codes Enforcement Officer, in the enforcement of this Article. The action of the Codes Enforcement Officer may be affirmed, modified or reversed by the Board.**



## **II. Waivers.**

**"The Zoning Board of Appeals shall decide upon written requests for waivers from the terms of this Article. Waivers shall be limited to variations in the lighting, dimensions, placement, type of placement, in the placement of an independent directional sign or in the addition to a KIOSK sign, provided there is room. Before the Board may grant a waiver, it must find that relaxation of the terms of this Article would not substantially depart from the intent and purposes of this Article and that literal enforcement of this article would result in a hardship that can stand a test of the following factors:**

**A. That the need for the waiver is due to the unique circumstances of the property, its location or unusual configuration of structure or property boundaries, and is not due to the general characteristics of the neighborhood;**

**B. That the granting of the waiver will not alter the essential character of the neighborhood or impact in a negative fashion surrounding properties particularly as impact relates to lighting, additional pedestrian and vehicle traffic as a result of signing, screening of pedestrian or vehicle traffic, noise or similar types of impact;**

**C. That the hardship is not the result of action taken by the applicant or prior owner on their own to create the hardship; and,**

**D. That the design of the sign is generally consistent with the sign design standards for the district in which the sign is to be located.**

**"The Board, in granting a waiver, may prescribe conditions and safeguards as are appropriate for carrying out the intent and purposes of this Article. Abutters shall be notified of any such waiver coming before the Zoning Board of Appeals as to the time and date, said notification the responsibility of the applicant, utilizing return receipt letters or abutter signatures as appropriate methods of notification." (Ord. 10-13-93)**

**III. Appeal to Court A person aggrieved by the Board may appeal to the Superior Court. The appeal must be filed within 30 days after notice of the decision under Title 80(B) of the Maine Rules of Civil Procedure.**

### **3.212 Penalties**

**Any violation of the terms and conditions of this ordinance shall be punishable by a fine of up to \$1000. Each day that a violation continues to exist shall constitute a separate violation. all fines collected hereunder shall be for the benefit of the City of Bath.**

## **ARTICLE 3. MURALS, ARTISTIC RENDERINGS, AND SIMILAR STREET GRAPHICS**

### **Section 3.301. Applicability**

**This Article shall be applicable to all murals, artistic renderings, or similar street graphics that are excluded from the definition of signs as appears in Article 2, Section 3-204.**

### **Section 3.302. Permits Required**

**A permit, prior to the establishment of any mural, artistic rendering, or similar street graphic, shall be obtained from the Codes Enforcement Office. The Codes Enforcement Officer shall examine the application and ensure that the proposed mural, artistic rendering, or similar street graphic is in conformance with the terms and conditions of this Article.**

### **Section 3.303. Application**

**Application for murals, artistic renderings, and similar street graphics shall be made on forms provided by the Codes Enforcement Office and shall contain at least the following:**

- A. Name, address and telephone number of applicant.**
- B. Location of the proposed mural, artistic rendering, or similar street graphic specifying the area where it is to be painted, attached or erected.**
- C. A general outline of the proposed mural, artistic rendering, or similar street graphic.**
- D. The location and dimension of any other murals, artistic renderings, or similar street graphics or signage on the property.**

### **Section 3.304. Dimensional and Location Restrictions**

**Any mural, artistic rendering, or similar street graphic shall be subject to the dimensional and location requirements found in Article 2, Section 3-205 of the Sign Ordinance of the City of Bath and Article 2, Section 3-206 of the Sign of the Ordinance of the City of Bath. For purposes of applying these location and dimensional standards, a mural shall be considered as a sign and shall be subject to all size and number calculations in terms of permitted numbers of signs and size of signs/area covered. Murals, artistic renderings, and similar street graphics are included with signage in terms of location and dimensional standards and not in addition to those standards.**

### **Section 3.305. Maintenance**

All murals, artistic renderings, and similar street graphics shall be properly and appropriately maintained and shall not be allowed to become a nuisance or safety hazard. The responsibility for maintenance shall be on the property owner. The Codes Enforcement Officer may order removal of any mural, artistic rendering, or similar street graphic that is not maintained in good order or that constitutes a nuisance, or a safety hazard.

### **Section 3.306. Historic District**

Any mural, artistic rendering, or similar street graphic proposed to be established in the Historic District of the City of Bath, as that area is defined in the Land Use Code of the City of Bath, shall be subject to Historic District Review under the terms, conditions and standards contained in Article 8, Section 8.12 of the Land Use Code of the City of Bath.

In instances where the scale and design of the mural, the space it is to occupy, and its compatibility with neighboring structures make it appropriate that a mural cover an area larger than the maximum allowed, a larger mural may be permitted by the Planning Board as part of the Historic District review. Such mural in excess of the maximum square footage requirement may be allowed without the necessity of acquiring a variance from the Zoning Board of Appeals.

### **Section 3.307. Exemption**

The south wall of the building owned by the Bath Area Young Men's Christian Association shall be exempted from the restrictions imposed in this Article for the purposes of establishing a children's wall. This shall be an area that will be available for the painting of murals by children. The structure may be utilized up to the base of the windows. The Bath Area Y.M.C.A. shall make all determinations with regard to the design and concept of this children's wall. Exemption shall cease if ownership of the building is transferred from the Bath Area Y.M.C.A.

### **Section 3.308. Administrative Appeals and Variances**

Administrative appeals and variances shall be in accordance with the provisions of Article 2, Section 3-210 of the Sign Ordinance of the City of Bath.

**Section 3.309. Penalties**

**Any violation of the terms and conditions of this Ordinance shall be punishable by a fine of up to \$1,000.00. Each day that a violation continues to exist shall constitute a separate violation. All fines assessed hereunder shall be for the benefit of the City of Bath.**

**This within Ordinance supersedes a previous Ordinance enacted by the Bath City Council regarding murals and specifically deletes Section 3.301.**

## **CHAPTER 4.**

### **ANIMALS**

#### **Article 1. DOGS**

- § 4.01. Purpose
- § 4.02. Construction
- § 4.03. Definitions
- § 4.04. Disposition of Unclaimed Dogs
- § 4.05. Disposition of dogs which have bitten persons
- § 4.06. Examination of confined dogs
- § 4.07. Prohibitions and Penalties
- § 4.08. Fees

#### **Article 2. MISCELLANEOUS**

- §4.20. Fee for use of Trap.

#### **Article 3. SMALL-SCALE CHICKEN FLOCKS**

- § 4.301. Purpose
- § 4.302. Definitions
- § 4.303. License Required; Fees.
- § 4.304. Use limitations and Restrictions
- § 4.305. Lot Requirements
- § 4.306. Housing
- § 4.307. Sanitation and Maintenance Standards
- § 4.308. Administration, Enforcement and Penalties

## **CHAPTER 4. ANIMALS**

### **ARTICLE 1. DOGS**

#### **Section 4.01. Purpose.**

The purpose of this Article is to regulate dogs in the City of Bath, to the extent that this subject matter is not otherwise regulated by State Law, and under the specific authority contained in 7 M.R.S.A. § 3950. The further purpose of this Article is to regulate dogs in the City of Bath to the end that dangerous dogs, the grouping of dogs in packs, the unrestricted travel of dogs in heat, property damage, nuisance, and noise shall be eliminated or kept to a minimum for the protection of the health, safety, comfort, convenience, and general welfare of the residents of the City of Bath, without unreasonably restricting owners and dogs in their normal activities.

#### **Section 4.02. Construction.**

The provisions which apply to the owners of a dog apply equally to any person having its custody, control or possession. A dog in company with two or more other dogs is deemed to be in a pack.

#### **Section 4.03. Definitions.**

(1) Dangerous dog means a dog which has bitten a person who was not a trespasser on the owner's premises at the time of the incident; or a dog which causes a reasonable person, acting in a peaceable manner outside the owners premises, to be put in apprehension of eminent bodily harm.

(2) Nuisance means the causing of unreasonable noise, litter, or property damage; the chasing of automobiles, motorcycles, bicycles, or other vehicles; and the entry on school grounds, while school is in session.

(3) Other terms in this Article shall be used in accordance with definitions appearing in 7 M.R.S.A. § 3907.

#### **Section 4.04. Disposition of Unclaimed Dogs.**

The Animal Control Officer shall keep all impounded dogs for a 48 hour period at the City Animal Shelter. If, at the end of the 48 hour period, the dog is not reclaimed, the Animal Control Officer shall place the dog with the Brunswick Area Humane Society or another owner, or if those two are not possible, he shall humanely dispose of the dog.

#### Section 4.05. Disposition of dogs which have bitten persons.

The owner of a dog who knows or has been advised that the dog has bitten a person shall confine the dog or have it confined by itself in a secure enclosure for at least fourteen (14) consecutive days and shall notify the Animal Control Officer immediately of the time, place, and reason for the confinement. During the period of confinement, the owner shall not destroy the dog nor allow it to be destroyed.

#### Section 4.06. Examination of confined dogs.

The Animal Control Officer shall have a dog which has been confined because of having bitten a person kept under observation for symptoms of rabies. At the end of the 14th day period of confinement, the Animal Control Officer shall determine whether the dog is infected with rabies. In making this determination, he shall employ such expert assistance as may be necessary. If he deems it necessary to keep the animal confined for longer than the 14-day period, he shall order it done. If the dog is found to be rabid, he shall notify the owner and the person bitten, and shall have the dog destroyed immediately, following any procedure recommended by the State Department of Health and Welfare. If the dog is not rabid, the owner shall thereafter muzzle the dog or keep it confined. All expenses incurred by the City in carrying out the procedure provided by this section shall be paid for by the owner of the dog.

#### Section 4.07. Prohibitions and Penalties.

(a) Running at large without identification. A person who violates this Article by permitting his dog to run at large without identification as required by State Law shall be punished by a fine of not more than Fifty Dollars (\$50.00).

(b) Dog in heat. The owner of any female dog in heat shall keep the same confined or on a leash at all times under the care of the owner, and shall not permit such dog to be at large within the City on any premises other than those of the owner. Every female dog found running at large hereof, is declared to be a public nuisance. The owner of a dog in heat which is found running at large shall be punished by a fine of not more than One Hundred Dollars (\$100.00).

(c) Traveling in packs. The owner of a dog traveling in a pack shall be punished by a fine of not more than Fifty Dollars (\$50.00).

(d) Running at large after causing nuisance. The owner of a dog which is found at large who knows or has been advised that the dog has caused a nuisance and has failed to keep the dog on his premises or under his control or under the control of a person charged with that responsibility shall, for the first offense, be punished by a fine of not more than Fifty Dollars (\$50.00). For the second offense and subsequent offenses, the owner shall be punished by a fine of not more than One Hundred Dollars (\$100.00).

(e) Disturbing the peace. The owner of a dog which disturbs the peace of any person by frequently and habitually barking, howling, or creating other noise shall be punished, on the first offense, by a fine of not more than Twenty-five Dollars (\$25.00). For the second offense, he shall be punished by a fine of not more than Fifty Dollars (\$50.00). For the third and subsequent offenses, he shall be punished by a fine of not more than One Hundred Dollars (\$100.00).

(f) Refusing to reclaim dog. A person who fails or refuses to reclaim his dog and pay the costs required by 7 M.R.S.A. § 3913, within one week after receiving oral or written notice of its impoundment, shall be punished by a fine of not more than Twenty-five Dollars (\$25.00).

(g) Leash requirements. The owners of all dogs within a city park area or designated recreation areas shall at all times control such dog(s) by means of a leash. Failure to do so shall be punished by a fine of not more than Fifty Dollars (\$50.00). This leash requirement shall not apply to the South End Park but other provisions regarding dogs including the requirements of Subsection (h) below, shall remain applicable. (Ord. 6/21/06)

(h) Feces. Any feces deposited by any dog(s) in a City park area (i.e. City park, waterfront park, boat launching facility or designated recreation areas) shall be immediately removed by the person in control of the dog(s) and disposed of in a safe and healthful manner. Failure to do so shall be punished by a fine of not more than Fifty Dollars (\$50.00).

(i) General Penalty. A person who violates any other provisions of this Chapter shall be punished by a fine of not more than One Hundred Dollars (\$100.00). All penalties assessed under this Article shall be to the use and benefit of the City of Bath.

#### Section 4.08. Fees.

The following fees shall be in effect:

(a) Fee for keeping dog - \$40.00 per day pro-rated for a portion of a day, but not to be less than \$10.00. These fees and any other fees subsequently enacted under this Section, may be subsequently changed or amended by Resolution of Council. (Ord. 4/6/11)

Note: Any fees collected under this Section shall be designated to revenue account 01-2023 for use in accordance with the provisions and requirements of 30-A M.R.S.A. § 3945.

Section 3945 requires certain fees to be separate and used for salaries and costs of animal control, enforcement of licensing law, care of injured and abandoned animals, and support of animal control shelters. The funds also are required to be carried forward from year to year.



## **ARTICLE 2. MISCELLANEOUS**

### **Section 4.20. Fee for use of Trap.**

- (a) Fee for use of trap - \$5.00 per seven day period or any portion thereof.

These fees and any other fees subsequently enacted under this Section, may be subsequently changed or amended by Resolution of Council.

**Note:** Any fees collected under this Section shall be designated to revenue account 01-2023 for use in accordance with the provisions and requirements of 30-A M.R.S.A. § 3945.

Section 3945 requires certain fees to be separate and used for salaries and costs of animal control, enforcement of licensing law, care of injured and abandoned animals, and support of animal control shelters. The funds also are required to be carried forward from year to year.

## **ARTICLE 3. SMALL-SCALE CHICKEN FLOCKS (Ord. 6-1-2016)**

### **Section 4.301. Purpose.**

The purpose of this Article is to provide standards for the keeping of domesticated chickens in urban, residential areas in the City of Bath. It is intended to enable and to regulate the keeping of a small number of chickens on a non-commercial basis by residents while limiting the potential adverse effects on the surrounding neighborhood. The City recognizes that adverse neighborhood impacts may result from the keeping of small-scale chicken flocks as a result of noise, odor, unsanitary animal living conditions, unsanitary waste storage and handling, the attraction of predators, rodents, insects, or parasites, and non-confined animals leaving the owner's property. This Article is intended to create licensing requirements and standards of use that ensure that small-scale chicken flocks do not adversely impact the neighborhood on which the chickens are kept.

### **Section 4.302. Definitions.**

The terms in this Article shall be in accordance with the definitions in the Land Use Code, Article 2, Section 2.02.

### **Section 4.303. License Required; Fees.**

A. License. A license is required for the keeping of any domesticated chickens in enclosed areas within the City of Bath where it is permitted. The license is personal to the permittee and may not be assigned or transferred and does not run with the land. An applicant for a license to keep chickens must be the occupant of the property and must demonstrate compliance with the

criteria, requirements and standards in this Article in order to acquire a permit. Application for a license shall be submitted on a form provided by the City. Where the applicant for a license is not the owner of the property where the use is proposed, then written permission from the owner for a small-scale chicken flock is required.

B. Fees. The fee for the license shall initially be forty dollars (\$40.00). This fee may be revised and adjusted by the Bath City Council by Resolution. In addition, inspections and reviews may incur additional administrative fees.

#### Section 4.304. Use Limitations and Restrictions.

A. Number. The number of domesticated chickens kept on a lot shall not exceed six (6), regardless of the number of dwelling units on that particular lot. A condominium complex for purposes of the number of chickens shall be considered a single lot and shall be limited to six (6) chickens. Chicks that are acquired to replenish the flock or as pets and which are kept within the dwelling are not counted as part of the flock, until introduced into the flock.

B. Gender. The chickens (*gallus domesticus*) shall be female only. No males or roosters shall be allowed. There shall be no restriction on species.

C. Non-Commercial Use Only. The chickens shall be kept for personal use only. No sale of eggs, breeding, sale of fertilizer, or fertilizer production shall be permitted. The slaughtering of chickens is prohibited.

D. Confinement. The domesticated chickens shall at all times be within the coop and enclosure perimeters and shall not be allowed to run free on the property occupied by the permit holder. No trespassing on adjacent property shall be permitted.

E. No Other Poultry. No ducks, geese, turkeys, pea-fowl, roosters or any other type of poultry are permitted.

#### Section 4.305. Lot Requirements.

The following requirements are minimum requirements and are not subject to waiver or variance.

A. Lot Size. The minimum lot size for the keeping of domesticated chickens shall be six thousand (6,000) square feet.

B. Setbacks. Coop/henhouse and the enclosure shall meet setback requirements for the zoning district where located but not less than fifteen feet (15') from any lot line.

C. Location. The coop/henhouse and enclosure shall only be located in rear areas. For a corner lot, a rear area is the two areas that are not front areas. In no case may a henhouse/coop or enclosure be placed in a front area (i.e. between the dwelling and the street).

D. Screening. Natural screening or fencing shall be provided so that the henhouse/coop and enclosure are not visible from adjacent properties at any time of the year.

E. Restrictive Zones. Domesticated chickens are not allowed in the Shoreline and Natural Resource Protection Overlay Zones.

F. Building Permit. If the combined size of the enclosure and the henhouse/coop exceeds one hundred (100) square feet, then a building permit from the Codes Enforcement Officer shall be required.

#### Section 4.306. Housing.

A. General. Chickens must be kept in a secure, henhouse/coop or enclosure at all times during daylight hours and within the henhouse/coop during non-daylight hours. Neither chickens nor structures housing chickens may be located within a residential structure.

#### B. Coops/Henhouses Construction Standards.

1. The structure shall be enclosed on all sides and have a roof and doors. Access doors must be able to be shut and locked at night. Any openings or vents must be covered with predator and bird proof wire of less than one.5 (1.5) square inch openings.

2. There shall be a minimum of six (6) contiguous square feet of interior floor space per chicken with a minimum of fifteen (15) continuous square feet of interior floor space regardless of the number of chickens.

3. The materials used in constructing the structure shall be uniform for each element of the structure such that walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials.

4. The structure shall be a minimum of four (4) feet in height and no more than seven (7) feet in height as measured from the mean grade level to the top surface of the roof. It shall be easily accessible for cleaning and maintenance.

5. The structure shall be covered and adequately ventilated and must be completely secured from access by predators, including all openings, ventilation holes, doors and gates. The structure shall be properly maintained so as to provide continuing security.

C. Enclosures.

1. The purpose of the enclosure is to provide an area where air and light may permeate but which will securely contain the chickens. It shall be a fully enclosed and protected space for chickens with unfettered access to the flock when in the enclosed outdoor space.

2. The enclosure must consist of sturdy wire fencing buried at least twelve (12) inches below ground level. The use of chicken wire is not permitted. The roof shall be covered with wire, aviary netting, or solid roofing material. The enclosure must be of substantial enough construction to prohibit the escape of the small-scale chicken flock and to exclude predators and to provide adequate shade for the flock.

3. A minimum of ten (10) contiguous square feet of exterior space per chicken shall be required with a minimum of twenty-five (25) contiguous square feet of exterior space regardless of the number of chickens.

4. The enclosure shall be no less than four (4) feet tall and shall have no greater height than seven (7) feet, measured as the vertical distance from the mean grade level to the top surface of the roof of the structure.

Section 4.307. Sanitation and Maintenance Standards.

A. Enclosures. Enclosures must be clean, dry and odor free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of the neighboring lots due to noise, odor, or other adverse impact. The chicken enclosure must provide adequate sun and shade and must be impermeable to rodents, wild birds and predators, including dogs and cats.

B. Henhouses/Coops. The chickens shall be secured within a coop/henhouse during non-daylight hours.

C. Odor. Odors from chickens, chicken manure, or any other chicken related substances shall not be perceptible at the property line.

D. Noise. Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

E. Feed and Water. Chickens must be provided with access to feed and clean water at all times. Such feed and water shall be protected so as to be unavailable to rodents, wild birds, domestic animals and predators.

F. Waste Storage and Removal. Provisions shall be made for the storage and removal of chicken manure and other waste material. All stored materials shall be covered and within a fully enclosed container. No more than three (3) cubic feet of manure may be stored. All other manure shall be removed from the site. The henhouse/coop, enclosure and surrounding area shall be kept free from trash and accumulating droppings. Uneaten feed shall be removed in a timely manner.

G. Vicinity to Water. No manure shall be stored within one hundred (100) feet of a waterbody or water supply.

H. Predators, Rodents, Insects and Parasites. The owner of the chickens and/or property owner shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.

I. Removal. Chickens found to be infested with insects and parasites that may result in unhealthy condition to human habitation shall be removed by the Animal Control Officer, Health Officer, or Codes Enforcement Officer or their designee(s). They may also order removal of chickens upon a determination that chickens otherwise pose a health risk. If a chicken dies, it shall be disposed of properly by the owner in a sanitary manner.

#### Section 4.308. Administration, Enforcement and Penalties.

A. Administration. The license required in Section 4.302 shall be issued by the Codes Enforcement Officer or designee upon a favorable inspection of the site, to determine that all of the provisions and requirements of this Ordinance have been met.

B. Enforcing Agent(s). Provisions of this Ordinance shall be enforced by the Codes Enforcement Officer, Animal Control Officer and/or Health Inspector or their designee(s).

C. Non-Waiver. The standards set forth in this Article are considered minimal standards and are not subject to waiver.

D. Violation(s) Enforcement. Failure to conform to the provisions of this Article or to obey an Order issued pursuant to the provisions of this Ordinance shall be considered a violation. In addition to any other enforcement action which the City may take, including injunctive relief if determined to be necessary, a violation of any provision or Order issued under this Article shall be enforced pursuant to the provisions of 30-A M.R.S. § 4452. Penalties and costs, including attorney's fees, shall enure to the benefit of the City.

E.      Revocation.    A license for the keeping of chickens in urban, residential areas may be revoked where it has been determined that there is a risk to the public health or safety or for any violation of or failure to comply with any of the provisions of this Ordinance or any other applicable Ordinance or Law. Revocation may also occur where the violation is determined to be a repeat violation. A repeat violation is a violator of a provision of this Ordinance by a person who has been previously found, through a codes enforcement action, to have violated or who has admitted violating the same provision within a five (5) year period, notwithstanding that the violations may have occurred at different locations.

## **CHAPTER 4B.**

### **WINNEGANCE RIVER HERRING COMMISSION**

#### **Article 1.**

- § 4B-01 Name
- § 4B-02 Effective Date
- § 4B-03 Composition of Commission
  - § 4B-04 Purpose of Commission
  - § 4B-05 Powers.
  - § 4B-06 Governing Laws
  - § 4B-07 Reports
  - § 4B-08 Organization
  - § 4B-09 Amendments

**CHAPTER 4B**  
**WINNEGANCE RIVER HERRING COMMISSION ORDINANCE**

**ARTICLE 1**

**4B-01. NAME.** This Ordinance creates the Winnegance River Herring Commission.

**4B-02. EFFECTIVE DATE.** The effective date of this Ordinance is September 1, 1985.

**4B-03. COMPOSITION OF COMMISSION.** The Commission shall be composed of six members. Two from each municipality appointed by the Selectmen of West Bath, the Selectmen of Phippsburg, and the City Council of Bath for two year terms except that the first year one member from each municipality shall be appointed to a one year term.

**4B-04. PURPOSE OF COMMISSION.** The purpose of the Winnegance River Herring Commission is to improve and enhance the river herring fishery at Winnegance. The Commission shall insure the use of proper conservation and environmental practices. The commission shall work to provide:

- (1) A maximum usage of the fishery;
- (2) Sufficient product for the fishing industry;
- (3) A return of investment for the municipalities without endangering the resource.

**4B-05. POWERS.** The Winnegance River Herring Commission shall have the power to:

- (1) Contract and conduct the sale of the rights;
- (2) Oversee the operation and maintenance of the facility;
- (3) Makes rules and regulations regarding the harvesting of river herring and the operation of the fishway.

**4B-06. GOVERNING LAWS.** This Commission shall abide by M.R.S.A. Title 12, Chapter 605, Subchapter V, Section 6131, and any applicable municipal laws.

**4B-07. REPORTS.** The Commission shall submit a yearly report to each municipality before



December 31st of each year.

**4B-08. ORGANIZATION.** The Commission may organize itself and adopt regulations for the efficient operation of the Commission.

**4B-09. AMENDMENTS.** This Ordinance may be amended by the governing bodies of all three municipalities voting in favor of any proposed amendment.

Enacted 6/18/85 - Phippsburg,  
Enacted June 1985 - West Bath,  
Enacted 8/28/85 - Bath

## **Chapter 5**

### **BUSINESSES**

#### **Article 1. General Licensing Provisions**

- § 5-01. License required; application.**
- § 5-02. Clerk's duty.**
- § 5-03. Limitation on Clerk's authority.**
- § 5-04. Bonds.**
- § 5-05. Certification procedure.**
- § 5-06. To whom certificates issued.**
- § 5-07. Requirements for certain certifications.**
- § 5-08. Appeals to Council.**
- § 5-09. Effective date of licenses.**
- § 5-10. Display of license.**
- § 5-11. Insurance.**
- § 5-12. Suspension or revocation of license; hearing.**
- § 5-13. Term of License.**
- § 5-14. Transferability of license.**
- § 5-15. Enforcement.**
- § 5-16. Penalty.**
- § 5-17. License Fee Schedule.**

#### **Article 2. Amusement and Entertainment**

- § 5-18. Bowling Alleys and pool rooms.**
- § 5-19. Exhibitions, performances and shows.**
- § 5-20. Merry-go-rounds.**
- § 5-21. Motion picture houses and theaters.**
- § 5-22. Public dances.**
- § 5-23. Roller Skating rinks.**
- § 5-24. Shooting galleries.**

#### **Article 3. Auctioneers.**

- § 5-25. License required.**
- § 5-26 through §5-27 Reserved.**

#### **Article 4. Junk Dealers and Collectors.**

- § 5-28. Definitions.**
- § 5-29. License required.**
- § 5-30. Separate places of business; inspections.**
- § 5-31. Records required; filing copy with Police.**
- § 5-32. Screening.**

- § 5-33. Restrictions on purchase of goods.
- § 5-34. Holding period before articles may be sold.

#### **Article 5. PIN BALL AND GAMING MACHINES**

- § 5-35. Definitions.
- § 5-36. License required.
- § 5-37. License fee; issuance; minimum age; investigations.
- § 5-38. Transferability.
- § 5-39. Repealed.
- § 5-40. Gambling not authorized.
- § 5-40.1 Obscene material prohibited.
- § 5-41. Revocation of license; appeals.

#### **Article 6. Taxicabs**

- § 5-42. Authority and Applicability.
- § 5-43. Definitions.
- § 5-44. General Provisions.
- § 5-45. Licenses - Generally.
- § 5-46. Owner's Licenses.
- § 5-47. Driver's Licenses.
- § 5-48. Suspension or Revocation.
- § 5-49. Taxicabs.
- § 5-50. Appeals.
- § 5-51. Transition Provision.
- § 5-52 through §5-58. Reserved.

#### **Article 7. Wood and Bark Sales**

- § 5-59. Certificate of measure required.
- § 5-60. Packing of firewood required.
- § 5-61. Appointment of measurers.
- § 5-62. Duties of measurers.
- § 5-63. Fee of measurers.
- § 5-64. Measurers; term of office.

#### **Article 8. RESERVED**

- § 5-65 through §5-86 Reserved

#### **Article 9. Special Business Regulations.**

- § 5-87. Employment agency.
- § 5-88. Gasoline and flammable liquids.
- § 5-89. Hawkers and peddlers.
- § 5-90. Itinerant vendors.
- § 5-91. Lodging houses and innkeepers.

- § 5-92. Transporting property or goods for hire.**
- § 5-93. Pawnbrokers and secondhand merchants.**
- § 5-95. Bottle Clubs.**
- § 5-96. Adult Business Establishment License.**
- § 5-97 through 5-100 Reserved**

#### **Article 10. Cable Television.**

- § 5-101. Designation of Article.**
- § 5-102. Definitions.**
- § 5-103. Franchise required.**
- § 5-104. Franchise agreement.**
- § 5-105. Bonds, indemnification and insurance.**
- § 5-106. Application.**
- § 5-107. Contract term, termination and renewal.**
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- § 5-110. Operation, service and maintenance of system.**
- § 5-111. Preferential or discriminatory practices prohibited.**
- § 5-112. New developments.**
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- § 5-117. Regulation of Basic Service Rates and Changes.**
- § 5-118. Severability.**
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#### **Article 11. Ambulances and Ambulance Services**

- § 5-131. Definitions.**
- § 5-132. License required.**
- § 5-133. Application for ambulance license.**
- § 5-134. Standards for ambulance license.**
- § 5-135. Liability insurance.**
- § 5-136. Issuance of license.**
- § 5-137. Inspections.**
- § 5-138. Ambulance equipment.**
- § 5-139. Renewal of license.**
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- § 5-141. Reports.**
- § 5-142. Ambulances, operation of.**
- § 5-143. Penalty.**
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- § 5-145. Separability.**
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## **Article 12. Special Amusements**

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- § 5-202. Definitions.**
- § 5-203. Permit required.**
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- § 5-205. Permit fee.**
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## **Article 13. Victualers**

- § 5-301. Definitions**
- § 5-302. License required; bond; expiration**
- § 5-303. Communicable diseases**
- § 5-304. Sanitation of premises; cleaning**
- § 5-305. Sleeping equipment**
- § 5-306. Linen and clothing**
- § 5-307. Animals prohibited; exception**
- § 5-308. Floors and walls**
- § 5-309. Protection of food from contamination; storage**
- § 5-310. Serving utensils**
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- § 5-312. Garbage and rubbish storage; disposal**
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- § 5-314. Lighting of premises required; standards**
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- § 5-317. Cleaning of utensils; food-contact surfaces; sinks**
- § 5-318. Hot and cold running water required**
- § 5-319. Lavatories**
- § 5-320. Common towels or drinking containers prohibited.**
- § 5-321. Sewage or refuse disposal not to create nuisance**
- § 5-322. Compliance with state plumbing and sewage laws**
- § 5-323. Special requirements for mobile home food service units.**
- § 5-324. Additional special sanitary requirements for catering establishments**
- § 5-325. Outside food service**

§ 5-326. Types of victualers' licenses; fees  
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#### **Article 14. Sidewalk Vending**

§ 5-401. Purpose.  
§ 5-402. License Required.  
§ 5-403. Designated License Area.  
§ 5-404. Location of Designated Areas.  
§ 5-405. Location Restrictions.  
§ 5-406. Classification of Locations.  
§ 5-407. Sidewalk Vending Committee.  
§ 5-408. License Period and Time of Operation.  
§ 5-409. Transferability: License Limitations.  
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§ 5-415. Abandonment.  
§ 5-416. Conduct – Prohibitions..  
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## **BUSINESSES**

### **ARTICLE 1. General Licensing Provisions**

#### **Section. 5-1. License required; application**

Any person required by the provisions of this Chapter to obtain from the City a license to engage in the operation, conduct or carrying on of any trade, profession, business or privilege, shall make written application therefor over his signature to the clerk upon forms provided by him and shall state such facts as may be required. Applications shall be accompanied by the required fee which will be returned if the license applied for is not issued. (License Ord. § 1, 4/6/49)

#### **Section 5-2. Clerk's duty.**

(a) As agent of the council, the Clerk is authorized and directed to receive all applications required by this Chapter, and act thereon with reasonable promptness consistent with the nature of the matter, by either:

1. Issuing the license as applied for, subject to limitations on his authority as contained herein; or
2. Denying the license and so notifying the applicant personally or in writing addressed to his address as shown in the application, such notice to state the reason for such denial. (License Ord. §2, 4/6/49)

#### **Section 5-3. Limitation on Clerk's authority.**

(a) The authority of the Clerk to issue licenses is hereby limited as follows:

1. The clerk acts as agent of the Council.
2. Anything in this Chapter to the contrary notwithstanding sole power to grant or to deny licenses.

(b) Certifications by officials and any other restriction in this Chapter are standards set up for the direction of, and limitations placed upon the authority of the Clerk in the exercise of his powers granted herein as agent of the council, and are not to be construed as limitations on or as delegations of power by the Council. (License Ord. §3, 4/6/49)

#### **Section 5-4. Bonds.**

Where the provisions of this Chapter require that the applicant furnish a bond, such bond shall be furnished in the required amount and be approved by the City Manager as to financial sufficiency, unless the approval of the council is specifically required by law prior to acceptance by the Clerk. The City Solicitor in his discretion, is authorized to accept or to require one or more insurance policies as a substitute for or supplement to any required bond when he considers such to be necessary to protect the interests of the City. (License Ord. §7, 4/6/49)

#### Section 5-5. Certification procedure.

In all cases where the certification of any City official is required as a condition precedent to issuance of any license by the Clerk, he shall notify promptly such officer and shall not issue such license until and unless all required certifications are received, as evidenced by signature on the application. (License Ord. §4, 4/6/49)

#### Section 5-6. To whom certificates issued.

No license shall be issued to partnerships or to persons engaged in business as sole proprietors under any name, style or designation other than their own name, exclusively, unless and until such partnership and sole proprietors have filed certificates in the office of the Clerk (License Ord. §5, 4/6/49)

#### Section 5-7. Requirements for certain certifications.

(a) In all cases where certification by any of the following City officials is required as a condition precedent to issuance of a license by the Clerk, such certifications shall be based upon actual inspection within twenty (20) days after notification by the Clerk, and findings as follows:

1. Fire Chief: That the premises comply with all applicable State laws and local ordinances, including but not limited to fire protection.
2. Health Officer: that the applicant and the premises in which he proposes to conduct the trade, profession, business or privilege comply with all applicable State laws and local ordinances relative to health and sanitation, including but not limited to health, plumbing and sanitation ordinances.
3. Police Chief: that the applicant is of good moral character and that the safety and good order will not be affected adversely. (Licenses Ord. §8, 4/6/49)

#### Section 5-8. Appeals to Council.

Whenever the Clerk refuses or neglects to issue a license as applied for, such refusal may be made, the subject of an appeal to the Council by the applicant if written notice of such appeal addressed to the Clerk is received by him within ten (10) days of the date of his written notice of refusal to issue. The Council shall consider such an appeal at its first regular meeting thereafter, or at an earlier special meeting at its discretion. (License Ord. §6, 4/6/49)

#### Section 5-9. Effective date of licenses.

The effective date of all licenses shall be the actual date of issuance thereof by the Clerk, except where the licenses are issued for a fixed period of time. (License Ord. §9, 4/6/49)

#### Section 5-10. Display of License.

Any person to whom a license has been issued shall keep the license exhibited at all times in a conspicuous place in the place of business for which the license was granted if the business is



carried on at a fixed place of business; otherwise he shall carry such license on his person when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which the license is granted. Any person receiving a license shall produce the license for examination when so requested by any city official. (License Ord. §10, 4/6/49)

#### Section 5-11. Insurance

(a) When policies of insurance are required, such policies shall be approved as to substance and form, by the City Solicitor. Such policies shall be issued by insurance companies duly admitted to transact business in Maine and public liability policies shall be at least in the following amounts:

(1) Bodily injury liability limits of Fifty Thousand Dollars (\$50,000) for one person and Fifty Thousand Dollars (\$50,000) for any number of persons in the same accident;

(2) Property damage liability limit in the amount of Fifty Thousand Dollars (\$50,000). (License Ord. §12, 4/6/49; Ord. 92-3, 3/25/92)

#### Section 5-12. Suspension or revocation of license; hearing.

(a) Any license issued may be suspended or revoked by the Council for cause. The person to whom such license was issued shall have the right to a hearing before the Council on any such action, provided a written request therefore is filed with the Clerk within ten (10) days after receipt of notice of such suspension or revocation. The action taken by the Council after such hearing, shall be final. No refund of any part of a license shall be made in connection with the suspension or revocation of any license for cause.

(b) As used in this Section, *Cause* shall include the doing or omitting of any act, or permitting any condition to exist in connection with any trade, profession, business or privilege for which a license is granted under the provisions of this ordinance, or any premises or facilities in connection therewith, which act, omission or condition is:

1. Contrary to the health, morals, safety or welfare of the public;
2. Unlawful, or fraudulent in nature;
3. Unauthorized or beyond the scope of the license granted;
4. Forbidden by the provisions of Federal or State laws or City ordinance, or any duly established rule or regulation of the City applicable to the trade or profession for which the license has been granted; or
5. The result or failure to comply continuously with all conditions required as precedent to the approval of the license.

(c) It is expressly provided that the violation of any of the State laws pertaining to the operation of motor vehicles, or violation of the City Traffic Ordinance, shall be cause for the suspension or revocation of licenses issued to a taxicab driver, but not to an owner of any taxicab involved in such violation. (License Ord. §§ 13, 14, 4/6/49)

#### Section 5-13. Term of License.

All licenses shall expire on the first day of May after date of issuance, except where the required fee indicates a lesser period, and except when otherwise provided by law. (License Ord. §15, 4/6/49)

Section 5-14. Transferability of License.

No license issued under this Chapter shall be transferable unless specifically authorized by the provisions of this Chapter or by the action of the Council. (License Ord. §16, 4/6/49)

Section 5-15. Enforcement.

It shall be the duty of the Police Chief to require prompt compliance with the provisions of this Chapter, and to prosecute all violators thereof. (License Ord. §17, 4/6/49)

Section 5-16. Penalty.

Unless otherwise specifically provided by law, the penalty for failure to obtain a license, as and when required by this Chapter or for operating after a license has been suspended or revoked, shall be not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) for each separate offense. Each day's violation of any provisions of this Chapter shall constitute a separate offense. (License Ord. §18, 4/6/49; as amended)

Section 5-17. License Fee Schedule.

The following schedule of license fees is hereby made effective:

<b>LICENSE</b>	<b>FEE</b>
<b>BOWLING ALLEYS</b>	<b>\$ 25.00 per year</b>
<b>CARNIVAL</b>	<b>\$ 50.00 per day</b>
<b>CIRCUS</b>	<b>\$100.00 per day</b>
<b>DANCES</b>	<b>\$ 25.00 per year</b>
<b>EMPLOYMENT AGENCY</b>	<b>\$ 50.00 per year</b>
<b>EXHIBITIONS OR SHOWS</b>	<b>\$ 50.00 per year</b> <b>\$ 15.00 per day</b>
<b>GASOLINE STORAGE, ETC.</b>	<b>\$ 25.00 per year</b>
<b>JUNK DEALER OR COLLECTOR</b>	<b>\$ 25.00 per year</b>
<b>LODGING HOUSE</b>	<b>NONE</b>
<b>PAWNBROKER</b>	<b>\$ 25.00 per year</b>
<b>PIN BALL AND GAMING MACHINES (PER MACHINE)</b>	<b>\$ 25.00 per year</b>
<b>PIN BALL ROOM (PREMISE)</b>	<b>None</b>
<b>POOL ROOM (PREMISE)</b>	<b>\$ 25.00 per year</b>
<b>ROLLER SKATING RINK</b>	<b>\$ 25.00 per year</b>
<b>SECOND HAND MERCHANTS</b>	<b>\$ 25.00 per year</b>
<b>SHOOTING GALLERIES</b>	<b>\$ 25.00 per year</b>
<b>TAXI CAB OWNER (PER VEHICLE)</b>	<b>\$ 25.00 per year</b>

<b>TAXI CAB OPERATOR LICENSE (NEW) (Ord. 4/6/11)</b>	<b>\$ 25.00 per year</b>
<b>TAXI CAB OPERATOR LICENSE (RENEWAL) (Ord. 4/6/11)</b>	<b>\$ 25.00 per year</b>
<b>THEATER OR MOTION PICTURE HOUSE</b>	<b>\$100.00 per year</b>
<b>TRANSIENT SELLERS OF CONSUMER GOODS (includes Hawkers, Peddlers, Itinerant Vendors and Solicitors)</b>	<b>\$ 25.00 per year</b>
<b>VICTUALER</b>	
<b>Restaurant</b>	<b>\$35.00</b>
<b>Caterer</b>	<b>\$35.00</b>
<b>Mobile Food Service Unit (per unit)</b>	<b>\$25.00</b>
<b>Special Food Handler (preparation of food to be taken off premises)</b>	<b>\$35.00</b>
<b>Non-profit Organization</b>	<b>No Charge</b>

(b) All license fees are annual, except as otherwise provided. Where the amount of the fee shown in the schedule is for a year, month, or day, there shall be no lesser charge for a part of year, month or day. No fee shall be charged for licenses required for events sponsored by the Bath Public School System (Ord. 3/31/82)

## **ARTICLE 2. AMUSEMENT AND ENTERTAINME**

Section 5-19. Bowling Alleys and pool rooms.

No person shall conduct, maintain or operate any place open to the public for bowling or for playing pool or billiards (except those operated by the Municipal Recreation Commission), without first obtaining a license. No such license shall be granted except upon certification of the Police Chief, Fire Chief, and Health officer. Such establishment shall not operate and shall be closed to the public between midnight and sunrise. A licensee shall furnish a ten thousand dollars (\$10,000.00) surety bond. (License Ord. §20, 4/6/49)

Section 5-19. Exhibitions, performances and shows.<sup>1</sup>

(a) No person shall conduct or operate any exhibition, performance or show at which an admission fee is charged without first obtaining a license therefore. No such license shall be granted except upon certification of the Police Chief, the Fire Chief and the Health Officer.

(b) Either the Fire Chief or the Police Chief, or both, may condition their certificate of approval upon the presence of one or more members of their respective departments or some person satisfactory to and under the direction of the Fire Chief or Police Chief, in which event, such expenses shall be reported to the Clerk as a part of the certificate and collected by the Clerk prior to the issuance of a license.

(c) No fee shall be charged for events conducted by local governmental or school authorities or organizations nor by local nonprofit organizations. (License Ord. §23 4/6/49)

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<sup>1</sup>State law references - Public exhibitions 8 MRSA (1964) § 501 et seq; theaters and shows, 8 MRSA (1964) §651 et seq.

## Section 5-20. Merry-go-rounds.

No person shall operate or run a merry-go-round in this city without first obtaining a license therefore. The license shall not exempt the operator from complaint to the Superior Court for maintaining a nuisance. No such license shall be issued except with certification of the Police Chief and the Fire Chief. (License Ord. §29, 4/6/49)

## Section 5-21. Motion picture houses and theaters.

No person shall operate a motion picture or a theater without first obtaining a license therefore. No such license shall be granted except on certification of the Police Chief, Fire Chief and Health officer. The payment of a motion picture house or theater license fee shall be considered total payment for all licenses and permits required of the motion picture house or theater under this article. (License Ord. §30 4/6/49)

## Section 5-22. Public dances.<sup>2</sup>

(a) No person shall conduct a public dance without first obtaining a license. In no event shall any such license be granted except upon certification of the Police Chief, the Fire Chief, and the Health Officer.

(b) No dancing shall be permitted at any public dance later than 1:00 a.m. without prior consent of the Police Chief.

(c) No person shall conduct any public dance at which minors are admitted without providing at his expense the services of a Special Police officer, selected by and under the direction of the Police Chief.

(d) This section, with reference to the license required, does not apply to dances conducted by local government or school authorities or organizations nor to dances given by any local non-profit organizations.

(e) Any such license issued hereunder may be suspended by the Chief of Police, or his designee, for good cause as defined in Section 5-12(b) for a period not to exceed fifteen (15) days. This suspension shall be for the purpose of providing the Council an opportunity to act pursuant to the provisions of Section 5-12(a). (License Ord. §21, 4/6/49; Ord. No. 87-3, 3/4/87)

## Section 5-23. Roller skating rinks.<sup>3</sup>

Every person who operates a roller skating rink or room shall obtain a license therefore. No such license shall be issued without the certification of the Police Chief, the Fire Chief and the Health Officer (License Ord. §42, 4/6/49)

## Section 5-24. Shooting galleries.

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<sup>2</sup> State law reference - Dances, 8 MRSA (1964) §161 et seq.

<sup>3</sup>State law reference: As to roller skating rinks, see 8 MRSA (1964) §601 et seq.

No person shall conduct , maintain or operate any shooting gallery which is open to the public without first obtaining a license. No such license shall be granted except upon certification of the Police Chief, the Fire Chief and the Health officer. Every person so licensed shall, at the time he received his licenses, give bond to the City in the sum of Ten Thousand Dollars (\$10,000.00). (License Ord. §44, 4/6/49)

### **ARTICLE 3. AUCTIONEERS**

Section 5-25. License required.

No person shall engage in the trade or business of Auctioneer in the City without first obtaining a City license therefore. Any applicant for an Auctioneer's license, who is a legal voter of the City, shall apply for his license to the City. Such license shall authorize the applicant to be an Auctioneer in the City and every town in Sagadahoc County, Maine, as provided by Title 32 Chapter 5 of the Maine Revised Statutes (1964). (License Ord. §19, 4/6/49)

Section 5-26 through Section 5-27. Reserved.

### **ARTICLE 4. JUNK DEALERS AND COLLECTORS<sup>4</sup>**

Section 5-28. Definitions.

(1) *Junk* shall mean old iron, chain, brass, copper, tin, lead, or other base metals, old rope, old rags, wastepaper, paper clippings, scraps of woolens, clips, bagging, rubber and glass and empty bottles of different kinds, where less than one gross and all articles discarded or no longer used as a manufactured article composed of one or more of the materials mentioned.

(2) *Junk Collector* shall mean every person who does not maintain or conduct a junk shop or yard in the City, but who on his own behalf, or as an employee or agent of any junk dealer, buys, sells, exchanges, collects, received or handles junk, as hereinafter defined.

(3) *Junk Dealer* shall be deemed to mean those persons dealing in junk who have a fixed place of business or storage in the city. (License Ord. §27, 4/6/49; as amended 6/1/49)

Section 5-29. License required.

(a) No person shall engage in the business of junk dealer or junk collector without first obtaining a licenses therefore.

(b) A junk dealers licenses shall be issued only after certification of the Police Chief, Fire Chief and Health officer.

(c) A junk collectors licenses shall be issued only after certification of the Chief of Police. (License Ord. §27 4/6/49; as amended 6/1/49)

Section 5-30. Separate places of business; inspections.

(a) A license is required for each place or premises where the business or any part thereof

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<sup>4</sup> State law reference: As to automobile junk yards, see 30 MRSA (1964) §2501 et seq.

(including storage) is conducted. No licenses shall engage in the business, in any manner, at any place, without first obtaining a license for each particular place.

(b) The Police Chief and Fire Chief shall be responsible for inspection of all junk yards periodically, and shall report immediately to the City Manager, who in turn shall report to the Council any violation of the above license conditions. (License Ord. §27, 4/6/49; as amended 6/1/49)

#### Section 5-31. Records required; filing copy with Police.

Every licensee shall make a duplicate copy or record of all articles purchased or otherwise acquired by such licensee, with date, name and residence of seller, and a description of each article sufficiently accurate to identify it. The licensee shall file the duplicate copies thereof in the office of the Chief of Police by 10:00 a.m. of the Saturday following the date of such record. Provided that no record shall be required of scrap iron, bones, waste paper, old rags, old rubbers, bottles and worn out and cast off clothing. (License Ord. §27, 4/6/49; as amended 6/1/49)

#### Section 5-32. Screening.

All buildings, lots or places where junk is placed or kept shall be completely screened from view from any public street by a fire proof fence, screen or building, and no junk shall be placed so it is visible from any public street. (License Ord. §27, 4/6/49; as amended 6/1/49)

#### Section 5-33. Restrictions on purchase of goods.

- (a) No licensee shall purchase or receive any article:
- (1) Between the hours of 7:00 p.m. and 7:00 a.m.
  - (2) On any Sabbath;
  - (3) From any person under the age of seventeen (17) years, without the consent of parent or guardian; or
  - (4) From a person known or suspected to be a thief or receiver of stolen property.

(License Ord. §27, 4/6/49; as amended 6/1/49)

#### Section 5-34. Holding period before articles may be sold.

Every licensee hereunder shall retain possession of all articles for which a record is herein required for a period of one week from the date of filing the record thereof in the Office of the Chief of Police, during which period the articles shall be subject to identification and inspection by the Chief of Police or any officers of the Police Department. The licensee shall produce and identify any such article upon request of the Chief of Police or any officer of the Police Department. This Section may be waived by the Chief of Police in certain justifiable cases where its enforcement would create a hardship and hinder normal business transactions. (License Ord. §27, 4/6/49; as amended 6/1/49)

### **ARTICLE 5. PIN BALL AND GAMING MACHINES<sup>5</sup>**

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<sup>5</sup>State law reference: As to pin balls and gaming machines, see 8 MRSA (1964), §441 et seq.

## Section 5-35. Definitions.

(a) As used in this Article:

(1) *Gaming machine* shall mean any mechanical or electrical machines which upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score, and which is operated for amusement only and does not dispense any form of pay off, prize or reward. This definition shall not include machines providing music. Gaming machines shall include any video machine or device which depicts a visual image for use by the general public, whether said machine is operated by the insertion of a coin, slug, token, plate or disc, or is operated by a third party upon receipt of a fee or payment.

(2) *Pin ball machine* shall mean any ball machine which upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for use as game, entertainment or amusement, whether or not registering a score, and which is operated for amusement only and does not dispense any form of pay off, prize, or reward. This definition shall not include machines providing music. (Ord. 9/7/55 §2)

## Section 5-36. License required.

No person shall keep for public patronage, or permit or allow the operation of any pin ball or gaming machine, in or on any premises or location under his charge, control or custody without having first obtained a license therefor from the Clerk.

(Ord. 9/7/55 § 1)

## Section 5-37. License fee; issuance; minimum age; investigations.

(a) The license herein required shall be obtained from the Clerk upon the payment of an annual fee for each machine kept in or on the premises or location and shall expire on April 30 of each year. The application for such license shall be made to the Clerk upon a form supplied by him for that purpose and shall contain such information as he may require.

(b) No such license shall be granted to any person under the age of twenty-one (21) nor to any firm, corporation or association whose officers are under such age. No such license shall be granted by the clerk unless such application shall be first approved by the Chief of Police of the City in writing, and such approval attached to or made a part of the application. (Ord. 9/7/55 §3)

## Section 5-38. Transferability.

The license required by this Article shall not be transferable to any other person or from location to location, and shall be valid only at the location and for the person designated therein. (Ord. 9-7-55, §5.)

## Section 5-39. Repealed.



Section 5-40. Gambling not authorized.<sup>6</sup>

Nothing in this Article shall in any way be construed to authorize, license or permit any gambling devices whatsoever or any mechanism that has been by the courts determined to be a gambling device or in any way contrary to law. (Ord. 9/7/55 §7)

Section 5-40.1. Obscene Material Prohibited.

(a) No machine as defined in this article shall display obscene material for viewing by the public. For the purposes of this subsection, "obscene material" shall mean any material which:

1. To the average individual applying contemporary community standards, considered as a whole, appeals to prurient interests.
2. Depicts or describes, in a patently offensive manner, ultimate sexual acts, masturbation, or lewd exhibition of the genitals; and
3. Considered as a whole, lacks serious artistic, political or scientific value.

Section 5-41. Revocation of license; appeals.

(a) Any license issued under this Article may be revoked by the Clerk:

1. When it has been made to appear to the Clerk that there has been a violation of any of the terms of this Article;
2. When it has been made to appear to the Clerk that the licensee himself or any of the officers of the firm, corporation or association are not proper persons to hold such a license; or
3. When it has been made to appear to the Clerk that the premises for which the license was granted is not a suitable location for such licensed activity.

The licensee shall have the right to appeal, in writing, such revocation at the next regular meeting of the Council thereafter which, after hearing, may affirm, modify or repeal the decision of the Clerk. Failure of the licensee to appeal at the next regular meeting shall be deemed to constitute a waiver of the right of appeal and shall constitute an affirmation of the revocation. (Ord. 9/7/55, §8.)

**ARTICLE 6. TAXICABS (Ord.11/7/2001)**

Section 5-42. Authority and Applicability.

A. Authority. This Ordinance is enacted under the General Home Rule Powers granted to municipalities under the Constitution of the State of Maine, Article VIII, Part Second, and under Title 30-A M.R.S.A. Subpart 2, Chapter 111. It is enacted by the municipal officers

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<sup>6</sup>Cross reference: As to gambling generally, see Article 4 of Chapter 10 of this Code.



under the specific authority of 30-A M.R.S.A. Section 3009(1)(F).

B. Applicability. This Ordinance is intended to apply to all transportation of passengers for hire for trips for an initiation point and/or termination point within the City of Bath and shall not apply to the transportation of passengers for hire under the following circumstances:

(1) A motor vehicle licensed by another municipality to operate as a taxicab or other vehicle for hire which may be operated within the City of Bath in response to a call to convey a passenger(s) from the City to another municipality or a request to convey a passenger(s) from such other municipality to the City, provided the vehicle is licensed for hire in that municipality;

(2) Any vehicle used for the transportation of passengers for hire which meets all of the following requirements:

(a) a vehicle is equipped with a ramp or lift mechanism designated to accomplish wheelchair access;

(b) the vehicle at all times when used for hire is transporting one or more handicapped persons. All persons within the vehicle need not be handicapped provided they are accompanied by at least one handicapped person;

(c) the vehicle is operated for hire only by prearrangement.

Any vehicle operated for hire, although designated for handicapped use, when not so used, shall be subject to the provisions of this Article.

#### Section 5-43. Definitions. (Ord. 9/3/08)

Disqualifying Criminal Conviction. Shall mean and include any conviction for any criminal offense punishable by imprisonment for any period of time, whether or not the sentence was imposed or served, but shall not include any conviction which is shown to have been set aside on appeal or collaterally, or for which a pardon, certificate of rehabilitation, or the equivalent under the law of the sentencing jurisdiction has been granted, or which is not rationally related to the purpose of licensing under this chapter.

Driver. Shall mean the licensed individual who is engaged in driving the taxi for hire.

Driver's License. Shall mean the permission granted by the City of Bath authorizing and individual to operate a taxicab upon the streets of the City.

Inspector. Shall mean and include any person designated by the Chief of Police to perform the function of inspections of taxicabs.

Owner. Shall mean the person, proprietorship, firm, association, partnership, corporation, limited liability company, or other form of business entity engaged in the business of carrying passengers for hire.

Owner's License. Shall mean the license granted to the owner of the business engaged in carrying passengers for hire.

Taxi or Taxi Cab. Shall mean and include any motor vehicle used or intended to be used for or engaged in the business of carrying passengers for hire, the destination and route of which are under the direction and control of the passengers and are not operated on a fixed route.

#### Section 5-44. General Provisions.

A. Place of Business; Provision of Service. Owners issued licenses under this Article shall maintain a place of business for the purpose of receiving calls and dispatching taxis. No orderly person, upon request, shall be refused or neglected transportation by a driver unless the taxicab is previously engaged or otherwise unable or forbidden by the provisions of this Article to accept such passenger.

B. Number of Passengers. No driver shall exceed the rated seating capacity of his taxicab as stated in the vehicle registration issued by the State of Maine.

C. Additional Passengers. No driver of a taxicab shall carry any person or permit any person to occupy or ride in the taxicab unless the person first employing the taxicab consents to the acceptance of additional passengers.

D. Posting of Rates. A plainly printed card setting forth the rates of fares charged between at least six frequently visited locations in Bath, shall be conspicuously displayed in every taxicab so that it can be seen and read by a passenger. Failure to so display a card, or proof of charging rates in excess of those posted, shall be grounds for revocation of the license of the owner and/or driver.

E. Code Compliance. The business office of the taxicab operation, the parking and storage of taxicabs, and their maintenance, shall all be accomplished, if within the City of Bath, in compliance with all applicable Bath Codes, specifically included, but not limited to, the City of Bath Land Use Code, Chapter 18, and the City of Bath Code on Vehicles and Traffic, Chapter 17.

F. Personal Belongings. No charge shall be made for the transportation of personal belongings, including bags and parcels, of a passenger.

G. Severability. In the event that any Section, Subsection or portion of this Article shall be declared by a Court of competent jurisdiction to be invalid for any reason, such decision shall not affect the validity of any other Section, Subsection or portion.

#### Section 5-45. Licenses – Generally.

A. Types of Licenses. The licenses authorized under this Article shall include an owner's license for the operation of the taxicab business entity, a driver's license issued to those individuals engaged in driving taxicabs, and a vehicle license which shall pertain to the standards

for vehicles engaged in the conveyance of passengers for hire.

B. Licenses Required. No person who meets the definition of an owner shall be allowed to operate a business which conveys passengers for hire within the City of Bath, except as exempted under Section 5-42(B), nor shall any individual operate a taxicab within the City of Bath, except as exempted under Section 5-42(B), nor shall any vehicle be placed in service as a taxicab, without a license being issued pursuant to the standards and procedures required under this Article.

C. Issuance of License. All licenses required to be issued under this Article, shall be approved by the Chief of Police or his designee, and issued by the City Clerk, after first having been satisfied that all requirements for the particular license under this Article have been met.

D. Licenses – Non-Transferable. All licenses issued under this Article shall be particular to the licensed individual or business entity, and may not be transferred to any other individual or business entity.

E. Term of License. Each license issued under this Article shall be for the term of one (1) year beginning on July 1<sup>st</sup> of that year and running through June 30<sup>th</sup> of the following year.

F. License Fees. Fees for the issuance of each license required under this Article shall be set by Resolution of the City Council. Fees for licenses for less than the entire year shall be prorated to reflect the remaining portion of the year, but shall reflect a minimum processing cost.

#### Section 5-46. Owner's Licenses. (Ord. 9/3/08)

A. Application. Each applicant shall file an annual application to be licensed as a business entity engaged in the taxicab business within the City of Bath. The application shall be on a form provided by the City of Bath and shall contain the following information:

A signed and verified listing of the name, address, telephone number, place of birth, and social security number of each person having an ownership interest in the business entity or having management authority over the operations of the business entity.

A record of any disqualifying criminal conviction of any officer of or person having an actual business ownership in, the applicant, or a statement that no such conviction exists shall be provided.

Business address(es) and telephone number(s).

Contact person, who is responsible for the day-to-day operations of the business, together with address and contact telephone number.

Number of positions anticipated for the license year; number of vehicles anticipated to be employed during the upcoming license year.

An appropriate form or statement over the signature of each owner or manager required to sign the application, giving all persons and governmental agencies having information relative to the applicant, permission to release the same to the Chief of Police or his designee.

Such other information as the Chief of Police may deem necessary or advisable in order to determine that the standards of issuance of this license have been met in full.

B. Standards for Issuance of Owner License.

If the business entity is other than an individual proprietor, that business entity shall be either organized under the laws of the State of Maine or licensed to do business within the State.

The business entity shall be the registered owner of all vehicles used in the business.

No principal officer or any person having an ownership interest or management authority shall have a disqualifying criminal conviction.

The applicant shall not have had his/its business license revoked within the last three (3) years preceding the date of application. This shall apply to the business entity for which the license is sought and to any previous business entity or individual proprietorship in which the owner or managing authority has participated.

Any applicant shall meet the insurance requirement set forth in Subparagraph C below.

Any application for license, which does not demonstrate that the applicant has met all of the conditions above, shall be denied.

C. Insurance. There shall be filed with each taxicab license application, a certificate of insurance covering the business entity and all vehicles that are to be licensed with at least the following coverage:

Bodily Injury Liability Limits of at least \$100,000.00 Per Person and \$300,000.00 For any Number of Persons in the Same Accident

Property Damage Liability Limit of at least \$50,000.00

All renewal applications shall be accompanied by the certificate of insurance. Failure to keep the required insurance in continuous Effect shall be cause for revocation of the owner's license.

D. Change of Address. When the business licensee, or any owner or managing authority of the business licensee, changes address or where the business address is changed or the place at which a taxicab is garaged, such change of address shall be provided to the Chief of Police within twenty-four (24) hours of such change.

Section 5-47. Drivers' Licenses. (Ord. 9/3/08)

A. Application. Each taxicab driver's license application shall contain the following information.

A listing of the name, address, contact telephone number, and age of the applicant.

Evidence of a valid State of Maine operator's license with a license identification number.

A complete statement of the applicant's health and physical condition, on a form provided by the Chief of Police in order to verify that the applicant is not suffering from any condition which would adversely affect his/her ability to function as a taxicab driver and thereby impair the safety of himself/herself or any of his/her passengers.

Statement of treatment for medical or physical condition or disorder during the previous three (3) years and by whom.

Previous driving experience, previous taxicab licenses, and the jurisdiction where they were issued, any previous denials of licenses, suspensions or revocations of such licenses, and the reasons therefore.

A complete record of the applicant with respect to any disqualifying criminal convictions as that term has been defined, or a statement that no such convictions exist.

A record of conviction for reckless driving, driving to endanger, operating or attempting to operate under the influence, during the three (3) year preceding the application.

A statement whether any driving license held by the applicant has been revoked during the last three (3) year preceding the application and the reasons for such revocation or revocations.

Evidence satisfactory to the Chief of Police that the applicant is of sufficiently good moral character so as to be entrusted with the safe care and custody of taxicab passengers.

An appropriate form or statement over the signature of the application, giving all persons and governmental agencies having information relative to the applicant, permission to release the same to the Chief of Police or his designee.

Such other information as the Chief of Police may deem necessary or advisable in order to determine that the standards of issuance of this license have been met in full.

B. Standards for Issuance of Drivers' Licenses.

The applicant shall have attained the age of eighteen (18) years.

The applicant shall be able to safely operate a taxicab and shall not present a danger to the health, safety or general welfare to the public.

The applicant shall not have been convicted of any class A, class B, or class C crime, or any crime committed under the laws of the United States of America or of any other state or territory

thereof, which is punishable (whether or not such punishment was actually imposed) by a sentence at least as harsh as that which is authorized for the commission of a class C crime under Maine law, provided that such conviction was for an offense which is rationally related to the purposes of licensing taxicab drivers. The Chief of Police shall determine, and has full discretion to determine, whether or not said conviction is rationally related to the purposes of licensing taxicab drivers.

The applicant shall not have a disqualifying criminal conviction at any time during the five (5) years immediately preceding the application or shall not have been imprisoned at any time during such period for a disqualifying criminal conviction, provided that such conviction was for an offense which is rationally related to the purpose of licensing taxicab drivers. The Chief of Police shall determine, and has full discretion to determine, whether or not said conviction is rationally related to the purposes of licensing taxicab drivers.

The applicant shall not have had his privilege to operate a motor vehicle in any jurisdiction revoked or suspended at any time during the twelve (12) month period immediately preceding the application. Any revocation/suspension shall be related to violations of this State or any other State's Motor Vehicle Code and administrative suspensions not related to motor vehicle operations shall not be considered.

The applicant shall not have been convicted of reckless driving, driving to endanger or operating a motor vehicle under the influence of intoxicating liquors or drugs more than one (1) time for the previous three (3) years immediately preceding the application date nor shall there be a record of any such convictions for the period of eighteen (18) months immediately preceding the application date. In addition, the applicant shall not have been convicted of these offenses while operating any vehicle licensed under this Article or which resulted in bodily injury for a period of five (5) years immediately preceding the date of the application.

The Chief of Police, or his designee, shall be satisfied that the applicant is of sufficient moral character so as not to represent a danger to passengers or the general public.

C. Issuance of License; Display. The Chief of Police or his designee shall cause to be issued a photo identification-license to each individual qualified to operate a taxicab under the terms and conditions of this Article. The license shall consist of the name and a photo of the driver, the name, address and telephone number of the cab owner, and a City license number assigned to that driver. It shall not contain any personal information regarding the driver. That photo identification-license shall be prominently displayed in any taxicab that the driver is operating.

D. Automatic Suspension or Revocation. Any driver's license issued under this Section shall be suspended or revoked during any period of time in which the licensee's State driver's license is suspended or revoked.

#### Section 5-48. Suspension or Revocation.

Suspension or revocation, at the discretion of the Chief of Police, may be imposed for the failure of the business owner or driver to meet any of the conditions precedent to the issuance of that particular license as listed above. In addition, the following acts or omissions may result in

the suspension or revocation, at the discretion of the Chief of Police, of an owner's license and/or a driver's license:

A. Either License.

Knowingly took a longer route to his or her destination than was necessary unless so requested by the passenger;

Knowingly conveyed any passenger to a place other than that which the passenger specified;

Solicited or caused another person to solicit taxicab passenger business in any manner whatsoever;

Transported any person other than the passenger first engaging the taxicab without the express consent of said first passenger;

Drove a taxicab when not clean and neat in appearance;

Permitted any person other than the driver and a passenger or passengers to remain in the taxicab at any such time, except a trainee, if a licensed taxicab driver;

Refused to transport any orderly person upon request because of that persons race, color, creed, national origin, ancestry, age, sex, religion or handicap status;

Failed to notify the Chief of Police of any change of any material fact set forth in the application for such license; or

Removed from a taxicab or obscured or caused to be removed from a taxicab or obscured the notice required by Section 5-44(D).

B. Taxicab Drivers' Licenses Only.

Engaged in any loud argument, fight or other disturbance; harassed, threatened or assaulted another person; intentionally damaged, destroyed or threatened to damage or destroy any property; or in any other manner engaged in conduct detrimental to the orderly and efficient transportation of passengers;

Failed to notify the Chief of Police and the Taxicab Owner of any conviction for reckless driving, driving to endanger, operating a motor vehicle under the influence of intoxicating liquor or drugs, attempting to operate under the influence, or an equivalent offense in any other jurisdiction, or suspension or revocation of the privilege to operate a motor vehicle;

Failed to notify the Chief of Police and the Taxicab Owner of any arrest, conviction or imprisonment within the five (5) years preceding application for license.

C. Taxicab Business Licenses.



There have been repeated violations by the driver or drivers which resulted in four (4) or more suspensions of the same driver, or eight (8) or more suspensions by employees of the same person holding more than one (1) taxicab business license, establishing a pattern of conduct by the holder of the taxicab business licenses;

The taxicab business licensee or any person employed by or connected with such licensee has operated a taxicab without a current and valid taxicab driver's license; or

Any taxicab or taxicabs covered by the taxicab business license have been the subject of one (1) or more violation notices for failure to comply with the standards set forth in this Article.

#### Section 5.49. Taxicabs.

A. List of Vehicles. For each license year the business owner shall submit, with the application for an owner's license, a list of all vehicles being operated by the company or anticipated to be operated by the company for the ensuing license year. This list shall be updated by filing an amended list with the Chief of Police at any time that a vehicle is taken out of service or a vehicle is added to service. Any vehicle being added to service shall comply with the requirements of this Section.

B. Taxicab License. No taxicab shall be operated within the City of Bath without first receiving from the Chief of Police a taxicab license. Prior to issuing a license or certificate for a particular vehicle, the Chief of Police shall determine that the standards relating to a licensing operation and condition of taxicab vehicles are met.

#### C. Identification.

(1) Marking. Each taxicab and vehicle used for hire shall have a design, logo, monogram, or lettering, containing the owner's name or trade name and the word "taxi", "taxicab" or "cab", permanently affixed to one door on each side of the taxicab. Such design, logo, monogram, or lettering, shall not be less than eight (8) inches in diameter or height.

(2) Lights. Each taxicab or motor vehicle for hire shall be equipped with an exterior light affixed to the roof of the vehicle covered with a translucent fixture marked with the word "taxi", "taxicab", or "cab" in legible lettering and shall be operated during the period between sunset and sunrise.

(3) Flashing Lights. No taxicab shall be equipped with any so-called "flasher" light.

D. Vehicle Standards. Every vehicle used as a taxicab shall meet on an ongoing basis the following standards:

(1) The vehicle shall have a valid State Certificate of Registration.

(2) The vehicle shall have a valid State Inspection Sticker.

(3) The vehicle shall at all times be in compliance with the laws of the State of Maine



relating to passenger vehicles and the rules and regulations of the State Commissioner of the Department of Transportation enacted pursuant thereto.

(4) The vehicle shall have the proper identifying markings and light required in Subsection C above.

(5) The vehicle shall be in clean and sanitary condition and in good repair. This term shall mean and include without limitation, the following:

No dents larger than six (6) inches in diameter;

No loose trash or large amounts of dirt or sand in the interior passenger area, whether or not the area is currently occupied by a passenger;

No missing body work, no visible primer paint, no rust greater than one (1) inch in diameter;

No cracks in windshield or windows;

Seat belts for all passenger seats visible and in working order;

All doors, including front area hatch, shall open and close normally;

The dome light and all interior lighting will be in working order .

#### E. Inspections.

(1) Each vehicle used as a taxicab shall be subject to an annual inspection by the Chief of Police or his designee to determine that all of the vehicle standards noted in Subsection D above have been met. This inspection shall include all those items necessary for the issuance of a valid State of Maine Inspection Sticker.

(2) In addition to the required annual inspection, each taxicab shall be subject to at least one (1) random vehicle inspection per license year by the Chief of Police or his designee.

F. Removal From Service. The Chief of Police or his designee may require the removal from service of any taxicab which does not meet the vehicle standards of this Article or may otherwise present a serious threat to the health or safety of passengers or the general motoring public. In such circumstances, a written Order to the licensed owner shall be given and the vehicle immediately removed from service. The owner may request a reinspection of the vehicle at any time and if the vehicle is found to be in compliance with the standards of this Article, it may be recertified and placed back in service. Where a reinspection is required, there shall be a reinspection fee of Thirty-Five Dollars (\$35.00).

#### Section 5-50. Appeals.

A. Any person or business entity aggrieved by a decision of the Chief or Police or his designee in the administration of this Article, may appeal that decision within ten (10) days of the date of receipt of the decision by filing an appeal in writing with the City Manager. The appeal shall state the decision appealed from and the basis upon which the appellant disagrees with the determination by the Chief of Police or his designee. The City Manager, if requested, shall hold a hearing with the appellant in order to determine the appeal within fifteen (15) days of receipt of the notice of appeal.

B. All appeals from any determination by the City Manager pursuant to Subsection A above, shall be pursuant to Rule 80B of the Maine Rules of Civil Procedure.

Section 5-51. Transition Provision.

Inasmuch as there are current licenses in effect which are due to expire, the 30<sup>th</sup> of April, 2002 and inasmuch as the license year under the provisions of this Ordinance begin July 1<sup>st</sup>, the current licenses in effect as of April 30, 2002 shall be extended until June 30, 2002.

## **ARTICLE 7. WOOD AND BARK SALES**

**Sections 5-59 through 5-64. Reserved**

## **ARTICLE 8. RESERVED**

**Sections 5-65 through 5-86. Reserved**

## **ARTICLE 9. SPECIAL BUSINESS REGULATIONS.**

Section 5-87. Employment agency.

(a) No person shall operate an employment agency for profit or remuneration without first obtaining a license therefor. No such license shall be granted, except upon certification of the Police Chief.

(b) A licensee shall furnish a bond, which shall have a surety a duly authorized surety company or two (2) individuals to be in such amount and form as required by Section 30-2651 et seq. of the Maine Revised Statutes (1964). (License Ord. §22, 4/6/49)

Section 5-88. Gasoline and flammable liquids.

(a) No persons shall store, or keep for sale or use more than ten (10) gallons of gasoline, naphtha or other flammable liquids (except in the tank of a motor vehicle or motor boat and except fuel oil and kerosene stored for heating purposes by the ultimate consumer) without first obtaining a license therefor. No such license shall be granted except on certification of the Fire Chief.

(b) The handling and storage of such gasoline, naphtha or other flammable liquids shall be in conformity with the statutes and the rules and regulations of the insurance Department of the State of Maine as promulgated under the authority of State law. (License Ord. §24, 4/6/49; as amended)

Section 5-89. Hawkers and Peddlers.

No person shall engage in the business of hawking or peddling of goods, wares and merchandise at retail within the City limits without first obtaining a license therefor. No such license shall be granted except upon certification of the Police Chief. This Section shall not apply to commercial agents or other persons selling samples, lists, catalogues or otherwise, goods, wares or merchandise for future delivery, to persons selling fish, or to persons selling

farm, dairy or orchards products of their own production, to persons selling bark, wood or forest products, to persons selling newspapers or religious literature, or to persons selling Christmas trees, Christmas wreaths, Christmas greens or Christmas cards or seals. (License Ord. §25, 4/6/49)

#### Section 5-90. Itinerant vendors.

(a) Itinerant Vendor for the purpose of this Section, shall mean and include all non-resident persons, both principals and agents, who engage in a temporary or transient business in the City, and such business in the City, and who, for the purpose of carrying on such business, hire, lease or occupy any building or structure for the exhibition and sale of such goods, wares and merchandise, or who sell goods, wares and merchandise at retail from a car, wagon or other conveyance.

(b) No person shall engage in the business of an "itinerant vendor" without first applying for a license to an making payment thereof, to the Collector of Taxes. No such license shall be granted without filing the required State License with the Collector of Taxes nor shall license be granted except upon the certification of the Police Chief and Fire Chief.

(c) No itinerant vendor shall be relieved or exempted from the provisions and requirements hereof by reason of associating himself temporarily with any local dealer, trader or merchant, or by conducting such temporary or transient business in connection with or as a part of the business of, or in the name of any local dealer, trader or merchant. The license fee shall be computed as required in Section 30-4602 of the Maine Revised Statutes (1964).

(d) This Section shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business, nor to bona fide sales of goods, wares and merchandise by sample for future delivery, nor to hawkers or peddlers on the street or peddlers from vehicles, all as provided by Title 32, Chapter 69 of the Maine Revised Statutes of 1964. (License Ord. § 26, 4/6/49)

#### Section 5-91. Lodging houses and innkeepers.

(a) No person shall operate an inn or lodging house of ten (10) lodging rooms or more, without first obtaining a license therefore. As provided by State law, there shall be no charge for such license, but such license shall not be granted except on the certification of the Police Chief, Fire Chief and Health Officer.

(b) The lodging house and innkeepers license shall expire on the first Monday in May of each year.

(Licensing Ord. §28, 4/6/4-9.)

#### Section 5-92. Transporting property or goods for hire.

No person shall engage in the trade or business of operating any vehicle for the purpose

of transporting or moving any property or goods, for hire or reward, whether by contract or otherwise, without first obtaining a license for each vehicle so operated. No such license shall be granted except upon certification of the Police Chief. In case of a refuse or garbage collector, no license shall be granted except upon certification of the Health Officer in addition to the Police Chief, and such license shall be conditioned upon compliance with any regulatory ordinance governing the handling of garbage and refuse. (License Ord. §41, 4/6/49.)

#### Section 5-93. Pawnbroker and Secondhand Merchants.

(a) No person shall engage in the business of dealing in secondhand or used personal property, or in business of a pawnbroker, without first obtaining a license therefore. No such license shall be granted except upon certification of the Police Chief and the Fire Chief.

(b) No licensee shall purchase or receive any article from any person under the age of seventeen (17) years, without the written consent of parent or guardian, or from any person known or suspected to be a thief or a receiver of stolen property.

(c) Every licensee shall keep a record of all persons with whom he does business and of all property coming into his possession together with a record of the disposition of each article, which record shall be kept available for examination by any city official. A daily report of such business transactions shall be filed the following day with the Chief of Police. (License Ord. §43, 4/6/49)

#### Section 5-95. Bottle Clubs.

No person, corporation, or other entity shall conduct the business sometimes known as a bottle club wherein alcoholic beverages including beer are consumed on the premises by patrons who supply their own alcoholic beverages and who are charged for mixing drinks or for admission to the premises, after the hour of 1:00 a.m., nor shall such activities be conducted on Sundays. (Ord. 6/20/79)

#### Section 5-96. Adult Business Establishment License (Ord. 10-2-13)

##### A. Authority

This Ordinance is enacted pursuant to the Home Rule Authority of municipalities under the laws of the State of Maine, Title 30-A M.R.S.A. § 3001 and under the authority of the Constitution of the State of Maine, Article VIII, Part 2, Section 1, as well as the general powers of municipalities to enact police power ordinances.

##### B. Findings

There is convincing documented evidence, based on research and studies by municipalities throughout the nation, that adult business establishments, because of their very nature, have negative secondary effects on the areas surrounding these types of business uses, that these types of uses are consistently and strongly associated with perceived decreases in the value of both residential and commercial properties, and that they facilitate illicit and undesirable and, in some cases, criminal activities that are detrimental to the City and to its inhabitants. Such adult business establishments can often be incompatible with surrounding uses particularly where a number of these types of uses are concentrated within a limited geographical area or are located

in close proximity to residential, daycare, school, house of worship, public parks or recreational areas, or other similar types of uses. A police power ordinance of this nature is a proper, reasonable and necessary means of controlling the negative secondary effects of such adult business establishments.

### C. Purpose

The requirements and regulations of this Section are directed to controlling negative secondary effects of adult business establishments and are not intended to address, limit or otherwise curtail protected speech or expression. Therefore, it is the purpose of this Section to provide performance standards and regulations relating to the time, place and manner of operation of adult business establishments, and to require their annual licensing. It is the further purpose of this Section to prohibit and prevent their location in proximity to other types of uses that are incompatible, including, but not limited to, those uses listed in Sec. B above. These regulations, performance standards and licensing requirements are necessary and appropriate to minimize the negative secondary affects identified in Sec. B above, to protect incompatible uses from exposure to adult business establishment operations, and to prevent concentration of these types of uses in one area or geographical location. It is not the intent of this Section to prohibit adult business establishments from locating in the community or to provide a reasonable opportunity for such uses to exist, but to regulate the impact of the business enterprise in accordance with the provisions of this Section.

### D. Definitions.

1. *“Adult amusement store.”* An establishment having as a substantial or significant portion of its sales or stock in trade “sexual devices” or films for sale or viewing on premises that are distinguished or characterized by their emphasis on matter depicting, describing or relating to “Specified sexual activities” or “Specified anatomical areas,” or an establishment with a segment or section devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin-operated booths, the exclusion of minors from the establishment’s premises, or any other factors showing that the establishment’s primary purpose is to purvey such material. A substantial or significant portion means sales constituting twenty-five percent (25%) or more of the gross sales of the business or a display area constituting fifteen percent (15%) or more of the total display area, measured on the basis of floor area.
2. *“Adult motion picture theater.”* An enclosed building used regularly and routinely for presenting motion picture material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to “Specified sexual activities” or “Specified anatomical areas,” for observation by patrons therein.
3. *“Adult entertainment cabaret.”* A public or private establishment which: features topless dancers, strippers, erotic dancers, including employees; or not infrequently features entertainers who display “Specified anatomical areas”; or features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or entertainers who engage in explicit simulation of, “Specified sexual activities”; or offers Sadoomasochistic acts or Bondage and discipline to patrons.
4. *“Adult relaxation spa”* or *“adult spa.”* An establishment or place primarily in the business of providing “rub-down” or other pseudo-massage services by a person or persons not licensed or exempt from licensing. This use shall not include any activities licensed by the State of Maine as

massage or massage therapy.

5. “*Adult Business Establishment.*” Adult Business Establishments include, but are not limited to, Adult amusement stores, Adult movie theaters, Adult entertainment cabarets, Adult relaxation spas or Adult spas.

6. “*Erotic dance.*” A form of dance which seeks, through one or more dancers, to arouse or excite the sexual desire of a patron or patrons.

7. “*Premises*” is defined as the entire building or structure concerned, including all floors, attics, basement areas, and outbuildings, whether or not partitioned into separate rooms or areas.

8. “*Public indecency*” is defined as the knowing or intentional commission of an act of sexual intercourse, a sexual act, sexual contact or nudity in a public place.

9. “*Sadomasochistic acts*” or “*Bondage and discipline.*” Flagellation, torture or punishment by or upon a person unclad or clad in undergarments, a mask or costume, or the condition of being fettered, bound or otherwise physically restrained while so clothed or by a person so clothed.

10. “*Sexual device.*” A device or object the primary purpose of which is to provide direct sexual stimulation to male or female genitals or anus.

11. “*Specified sexual activities*” means:

the sexual stimulation or arousal of human genitals;

acts of human masturbation, sexual intercourse, or sodomy;

fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

12. “*Specified anatomical areas*” is defined as:

a. Less than completely and opaquely covered:

human genitals, pubic region;

buttocks; or

female breast below a point immediately above the top of the areola; and

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Terms not defined in this Section but otherwise defined in other City Codes, shall have the meaning defined as provided in those Codes. Terms not defined in this Ordinance or other City Codes, shall have their customary , ordinary and usual meaning.

#### E. License required.

No person shall operate an Adult Business Establishment, nor shall any property owner permit the use of his or her premises to be operated as an Adult Business Establishment without a valid Adult Business License issue by the City. Each License shall be for a period of One (1) year from the date of its issuance. A License must be obtained prior to the opening of an establishment, prior to the expiration of any current annual License in effect, and, for any business establishment currently in operation, within Sixty (60) days of the date of adoption of this Ordinance.

#### F. Application.

1. An Applicant for an Adult Business Establishment License shall:

Complete and file an application prescribed by and provided by the City.

Deposit with the City Clerk a processing and licensing fee of \$250.00 and an additional processing fee of \$25.00 per person for each person over four (4) required to be investigated under the provisions of Sec. G. This fee is nonrefundable and must be deposited before the City takes any further action in investigating or processing the License. The amount of this fee may be determined and adjusted from time to time as costs and expenses may dictate by the City



Council.

2. Additional filing requirements:

A description of the form of ownership of the business enterprise together with attested copies of the organizational documents of the business entity (i.e. Articles of Incorporation and By-Laws if a corporation, Partnership Agreement if a partnership, Articles of Association and By-Laws if an Association, LLC Filings and Managing Agreement if an LLC, etc.).

An Affidavit under oath which states the names, contact information, places of residence at the time of application, and for the immediately preceding three (3) years of all owners, stockholders, members, partners, officers, directors, or other owner/participants in the business entity together with all managers and supervisory personnel responsible for the business operation and all employees. The Affidavit shall not be a public record and shall not be available to the public.

Evidence of an interest in the premises in which the Adult Business Establishment will be sited, together with the form of interest, along with the written consent of the owner of the premises for such use if the applicant is not the owner.

A Statement as to the precise nature of the business with a description of the nature of all products and services offered to its customers.

The date of initiation of the business use if in operation at the time of adoption of this Ordinance and application for license.

A Release authorized by 16 M.R.S.A. § 620(6) (Criminal History Record Information Act) for each individual identified in Subsection (b) above.

Evidence of compliance with the requirements of Sec. L through Q and evidence that there is no basis for denial of a License to an applicant under the standards listed in Sec. K.

Any other information that the City Manager or the City Clerk, upon review of the completed application and submissions, may deem necessary in order for the City Council to determine that the applicant complies with all of the regulations and requirements of this Section.

No applicant shall accrue any vested rights regarding the establishment of an Adult Business Establishment until a completed application has been filed with the City Clerk's Office as may be determined by the City Manager with the assistance of the City Clerk and the Codes Enforcement Officer.

G. Investigation of Applicant, Officers Etc.

Upon receipt of an application or of a notice of a change of any of the individuals listed in Sec. F(2)(b) above, the City shall provide copies of a completed application to the following staff members for purposes of conducting the investigations and issuing reports as listed below:

1. The Building Inspector shall verify that the premises at which the establishment will be located complies with all applicable State Codes and ordinances of the City including, but not limited to, the building code, electrical code, and plumbing code and shall report findings in writing to the City Clerk;

2. The Codes Officer shall inspect the location or proposed location to determine whether the applicable ordinances relating to land use issues and building and safety code issues have been satisfied and shall report findings in writing to the City Clerk;

3. The Health Officer shall inspect the location or proposed location to determine whether all applicable ordinances relating to health and safety have been satisfied and shall report findings in writing to the City Clerk;

4. The Fire Chief or his/her agent shall inspect the location or proposed location to determine if all City ordinances concerning fire and safety have been satisfied and shall report findings in writing to the City Clerk;

5. The Police Chief or his/her agent shall investigate the application and conduct a background check for all of those individuals listed in the Affidavit required under Sec. F(2)(b) and shall report findings in writing to the City Clerk.

#### H. Action on Application.

1. Public Hearing. The City Clerk upon receipt of a completed application and upon receipt of the findings of the reports required under Sec. G above, shall schedule a public hearing at a regular or special meeting of the City Council and shall arrange for public notice of the public hearing to appear in a newspaper of general circulation within the City of Bath at least Ten (10) days prior to the date of the scheduled public hearing. Costs of the hearing notice shall be paid out of the License and processing fee submitted by the applicant with the application and supporting documents.

2. Council Action. The City Council, after notice and public hearing, shall determine whether the application and documents submitted comply with all of the requirements of this Section. The License shall be issued upon determination by the City Council, based upon required application submissions, other documents of record, staff reports, and evidence and testimony presented at the public hearing, that the application meets the requirements of this Section.

#### I. Status of License.

Any License issued under this Section or any renewal thereof, may not be transferred or assigned to any individual or business entity other than the party originally licensed.

#### J. Duty to update information.

Any licensee issued a License under this Section, shall have the ongoing duty to maintain updated and accurate information regarding all of the information provided under the application process and as indicated in Sec. F. Such information shall be updated within Ten (10) days of any change of status. Failure to do so may result in revocation of the applicant's license.

#### K. Standards for denial.

An application for an Adult Business Establishment License may be denied by the Council under any of the following circumstances:

the applicant is a corporation not licensed to do business in the State of Maine;

the applicant is an individual who has been convicted of any crime in the ten years immediately preceding the application;

the applicant is a business entity and any person having an ownership interest, or any person having management authority over the business entity has been convicted of any crime in the Ten (10) years immediately preceding the application;

the applicant is an individual who is less than 18 years of age;

the applicant has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required by the City Clerk, City Manager or Council, that is reasonably necessary to determine whether the license is issuable;

the applicant, if an individual, or any person having an ownership or management interest, if a business entity, has been denied an Adult Business License for knowingly making an incorrect statement of a material nature within the immediately preceding ten years;

the applicant, if an individual, or any person having an ownership or management interest, if a business entity, has had a License granted pursuant to this Section or a similar ordinance



provision in any other municipality, permanently revoked or suspended for one (1) year or more, for any reason during the immediately preceding ten years;  
the site on which the Adult Business Establishment is proposed is a prohibited site under Sec. O;  
if the application in any other way fails to meet the requirements in this Section.

L. Standards for suspension, revocation.

Any Adult Business Establishment License may be suspended or revoked by the Council, after hearing, under any of the following circumstances:

the licensee fails to notify the City Clerk of any change in material fact set forth in the application for such license;

the licensee violates any provision of this Section;

the licensee is convicted of any crime;

the licensee violates this Section or any other City of Bath Ordinance, or any related ordinances from other municipalities;

any officer or employee of the licensee provides sexual intercourse, a sexual act or sexual contact on the premises of the Licensee, as defined by Maine law, for any direct or indirect payment of money or any other object of value.

M. Age restriction.

No Adult Business Establishment may permit any person under the age of 18 years on the premises in which the Adult Business Establishment is located, either as a customer or an employee.

N. License, fees, and names of owners or officers to be available on site.

An Adult Business Establishment Licensee must display the Adult Business Establishment License at all times in an open and conspicuous place within the Adult Business Establishment for which the License has been issued. Adult Business Establishment Licensees must also display at all times in an open and conspicuous place in the Adult Business Establishment, a complete list of fees, prices and charges for all food, beverages, goods, wares, merchandise or services offered by the Adult Business Establishment. The list of prices and charges must be written in clearly visible letters and figures of a size not less than 14 point. The list of names and officers shall be available on site to law enforcement and/or City personnel.

O. Prohibited sites.

1. No Adult Business Establishment may be located or commence operation:

a. in land use district other than a CIV District;

2. No Adult Business Establishment may be sited within the distances of the uses specified below:

a. within 500 feet of a church, synagogue or other house of religious worship;

b. within 500 feet of a public or private elementary, middle or secondary school;

c. within 250 feet of a zoning district where residential use is allowed as a primary use;

d. within 250 feet of a lot where the primary use is residential;

e. within 500 feet of a public park or public or private recreational facility or site;

f. within 500 feet of a lot on which another Adult Business Establishment is sited;

g. within 500 feet of a lot on which a licensed daycare is sited.

The distances cited in this section shall be measured from the nearest customer entrance of the Adult Business Establishment to the nearest customer entrance of the structure or structures housing the specified uses, measured in a straight line without regard to intervening structures objects. If the use specified above does not involve a structure, then the measurement shall be to the closest point in the property line of the use, to the customer entrance of the adult business use.

3. An Adult Business Establishment which does not comply with the siting requirements in Subsection (1) above, and which is in existence as of the date of the enactment of this Ordinance, may continued in operation at its existing site, if duly licensed under this Ordinance. It shall be considered as a non-conforming use for zoning and land use purposes. No change of the type of adult business use or adult business products may be made and there may be no increase in the area designated for the adult use.

4. An Adult Business Establishment licensed under this Ordinance, and meeting the siting requirements of Subsection (1) above at the time of establishment, shall not be made non-conforming by the establishment of one or more of the uses listed in Subsection 1(b) above within the minimum distances indicated, or if the location of the Adult Business Establishment due to a change in the land use map, is moved to another zoning district.

#### P. Prohibited activities.

1. All acts of Public indecency, as defined in any City of Bath Ordinances and Title 17-A M.R.S.A. § 854, are prohibited in Adult Business Establishments;

2. Dancers, performers, employees, owners or officers of an Adult Business Establishment shall not fondle or caress any patron or client and patrons and clients shall not fondle or caress dancers, performers, employees, owners or officers of the Adult Business Establishment;

3. Dancers, performers, employees, owners or officers of an Adult Business Establishment while on the premises of the Licensee shall not:

a. perform, offer to perform or agree to perform sexual intercourse with each other or any patron or client;

b. commit, offer to commit or agree to commit any sexual act with each other or any patron or client; or

c. make, offer to make or agree to make sexual contact with each other or any patron or client; and

4. Patrons and clients of Adult Business Establishments while on the premises of the Licensee shall not:

a. perform sexual intercourse with any dancers, performers, employees, owners or officers of the Adult Business Establishment; or

b. commit any sexual act with any dancers, performers, employees, owners or officers of the Adult business Establishment; or

c. make sexual contact with any dancers, performers, employees, owners or officers of the Adult Business Establishment.

#### Q. Physical layout of Adult Business Establishment.

1. Any Adult Business Establishment having available for customers, patrons or members, any booth, room or cubicle for any private viewing of any adult entertainment shall comply with the

following requirements.

a. Access. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the Adult Business Establishment, and shall be unobstructed by any door, lock or other control-type devices.

b. Construction. Every booth, room or cubicle shall meet the following construction requirements:

Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a wall.

Each booth, room or cubicle must have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth, room or cubicle.

All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light-colored, nonabsorbent, smooth textured and easily cleanable.

The floor must be light-colored, non-absorbent, smooth textured and easily cleanable.

The lighting level of each booth, room or cubicle, when not in use shall be a minimum of ten foot candles at all times, as measured from the floor.

c. Occupants. No more than one individual shall occupy a booth, room or cubicle at any time. No occupant of a booth, room or cubicle shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth.

2. Any Adult Motion Picture Theater shall comply with the following requirements.

a. Aisle lights and overhead lights in the theater shall be kept on during business hours and shall illuminate to a minimum of ten foot candles except when motion pictures are being shown;

b. No standing shall be allowed in the theater;

c. Signs shall be posted warning patrons that sexual activity is prohibited in the theater and informing them of the presence of surveillance cameras, if any; and

d. Theater employees shall regularly patrol the theater during business hours and eject persons found to be engaged in sexual intercourse, a sexual act, sexual contact or any criminal activity on site. Incidents of sexual intercourse, sexual acts, sexual contact or criminal activity in the theater shall be immediately reported to the Bath Police Department.

3. Rest rooms must be individual rooms and shall not contain facilities for more than one person at a time. No more than one person shall be in the rest room with the door closed at any time. In the event the Adult Business Establishment licensee is a lessee of the premises on which the Adult Business Establishment is located, both the licensee and the owner shall be responsible for compliance with this section, and both the licensee and the owner shall be legally responsible for any violation.

R. Dancers and other performers.

An Adult Business Establishment must observe the following restrictions on dancers and other performers:

1. All dancing or other performances must occur on a platform intended for that purpose which is raised at least two feet from the level of the floor.

2. There shall be no physical contact on the premises between dancers and patrons. No dancing or other performance shall occur closer than ten feet from any patron, and no patron shall be allowed to be closer than ten feet from any dancer or other performer. For purposes of this Subsection, physical contact does not include incidental touching between a dancer and patron of a business or social nature, i.e., handshake or the brief contact that occurs while a patron is giving a tip to a dancer.

3. Dancers or performers who remove any garments during the nude entertainment shall not toss

or throw those garments to any customers or patrons.

4. Dancers or performers providing the nude entertainment shall not engage in any sadomasochistic acts or specified sexual acts as defined in this Ordinance.

S. Reserved.

T. Outside displays.

There shall be no outside display of any materials, text, or devices exhibiting or describing specific sexual activities, sexual material or paraphernalia. No sexual explicit materials, entertainment or activities shall be visible from the exterior of the premises.

U. Conflicts.

The provisions of this Section shall be in addition to any other related land use, building, safety or health codes and if in conflict, the provisions of this Section shall prevail.

V. Violations; penalties.

In addition to revocation or suspension of an Adult Business Establishment License as provided in Sec. L, the violation of any provision of this Section shall be punished by a fine not less than one thousand dollars (\$1000) nor more than two thousand five hundred dollars (\$2500) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the City may enjoin or abate any violation of this Section by appropriate action, including but not limited to revocation of the License. All fines and penalties, together with costs of prosecution of violations, which shall include the City's costs and attorney's fees, shall enure to the benefit of the City.

W. Enforcement.

This Section shall be enforced by the Police Chief, the Codes Enforcement Officer, the Fire Chief, their designees, or other appropriate staff member. Notice of violations by Adult Business Establishment Licensees of other provisions of the Bath Code of Ordinances shall be provided to the Police Chief, Manager, Council and City Solicitor.

X. Severability.

If any section, phrase, sentence or portion of this Section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Y. Appeals.

An appeal from any final decision of the Council may be taken by any party to Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure. Any denial, suspension or revocation shall be in writing and shall include notification of the right to and procedure for appeal.

Section 5-97 through 5-100. Reserved

## **ARTICLE 10. CABLE TELEVISION.**

### **Section 5.101. Designation of Article.**

This Article shall be known as the City, of Bath Cable Television Article. (Ord. 5/7/75 §1)

### **Section 5-102. Definitions.**

For the purposes of this Article, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number, and vice versa. The word "shall" is always mandatory and not merely directory.

**Cable Service.** The one-way transmission to Subscribers of video programming or Other Programming Services, together with Subscriber interaction, if any, which is required for the selection or use of such video programming or Other Programming Service.

**City** means the City of Bath organized and existing under the laws of the State of Maine and all territory within its existing and future territorial corporate limits.

**Cable Television System** means any facility that, in whole or in part, receives directly or indirectly over the air, amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations, or originates its own signal or signals produced through any of its community access channels and distributes such signals by wire or cable to subscribing members of the public who pay for such service. The term does not include: (1) any facility that serves fewer than 50 subscribers; or (2) any facility that serves only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of the apartment dwellings.

**Franchise Authority** is the City Council of the City of Bath.

**FCC** is the Federal Communications Commission.

**Franchise** means the right, privilege and franchise to construct, operate and maintain a cable television system, and appurtenances or parts thereof, in the streets, roads, alleys, and other public ways of the City.

**"Cable Operator"** means any person or persons owning, controlling, operating, managing or leasing a cable television system within the City, pursuant to this Article, and pursuant to any franchise granted to it by the City. This term shall include any lawful successor(s) to the interest of such person or persons where consent to such successor(s) is approved under the provisions of this Article or under the terms of a Franchise Agreement entered into pursuant to this Article.

**Gross annual revenues** means any and all payments made to or compensation received by a Cable Operator, its affiliates, subsidiaries, parents and any person or entity in which the Cable Operator or any such affiliate, subsidiary or parent has a financial interest, directly or indirectly (collectively called "affiliated entities"), from subscribers, advertisers or other users of the cable system in connection with the operation of the cable system within the franchise area, including revenues from subscribers or users in payment for programs received and/or transmitted, pay and subscription TV, optional programs and special contracts, charges for connection, disconnection, repairs and adjustments, advertising revenue, rentals of access facilities and equipment, revenues from equipment sales or rental, revenues from channel leasing and any other monies that constitute income derived from the provision of cable service.

Person. Any corporation, partnership, limited partnership, association, trust, organization, other business entity, individual or group of individuals acting in concern.

Program means any audible, visual or facsimile signal, message, graphics, data or communication of any kind transmitted on the cable system whether analogue or digital.

Programming or Video Programming., Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

Subscriber means any person, firm, corporation or other entity receiving, or subscribing to, for any purpose any cable service by means of, or in connection with, of a Cable Operator's cable television system including, but not limited to the conventional cable television service of retransmission of television broadcast, radio signals, Cable Operator's original cable casting, and the local government education and public access channels.

Section 5-103. Franchise required.

No person, firm or corporation shall install, maintain or operate within the City or any of its public streets or other public areas any equipment or facilities for the operation of a cable television system unless a franchise agreement authorizing the use of said public streets or areas has first been obtained pursuant to the provisions of this Ordinance and unless said franchise agreement is in full force and effect.

Section 5-104. Franchise Agreement.

The Municipal Officers of the City may contract on such terms, conditions and fees as are in the best interest of the municipality and its residents with one or more Cable Operators for the operation of a cable television system within the City, including the granting of non-exclusive franchise agreements for the operation thereof.

Prior to issuing a request for proposals to any Cable Operators for franchise agreements or renewals, the City shall hold a public hearing or conduct some other process to determine any special local needs or interests with respect to cable television service and shall allow for a period of public comment on the request for proposals.

Franchise agreement applications, including renewal applications, and any submittals in response to a request for proposals or solicitation of bids and related documents, are public records. Upon the filing of such documents, the City shall provide reasonable notice to the public that such documents are open to public inspection during reasonable hours.

Each franchise agreement between the City and the Cable Operator shall contain but is not limited to, the following provisions:

A statement of the area or areas to be served by the Cable Operator;

A line extension policy;

A provision for renewal, the term of which may not exceed ten (10) years;

Procedures for the investigation and resolution of subscriber complaints by the Cable Operator;

An agreement to comply with the requirements of 30-A M.R.S.A. §3010 regarding consumer rights and protection and any amendments thereto;

Any other terms and conditions that are in the best interest of the City;

A provision for access to, and facilities to make use of, one or more local public, educational and



governmental access channels; and

A provision for payment by the Cable Operator of the City's expenses incurred in connection with the award and negotiation of the franchise agreement and all activities and processes connected therewith, including consultants fees and expenses.

Section 5-105. Bonds, indemnifications and insurance.

(a) Performance Bond to City. Concurrent with the award of a franchise to it, the Cable Operator shall file with the City Clerk and shall thereafter annually during the entire term of such franchise maintain in full force and effect a corporate surety bond or other adequate security agreement in such amount and kind that shall have been approved by the City Council. The bond or agreement shall be so conditioned that in the event that the Cable Operator shall fail to comply with any one or more provisions of this Article or of such franchise agreement, then there shall be recoverable jointly and severally from the principal and surety any damage or loss, or cost suffered or incurred by the City as a result thereof, including attorney's fees and costs of any action or proceeding and: including the full amount of any compensation, indemnification, cost of removal or abandonment of any property or other costs which may be in default up to the full principal amount of such bond. Said conditions shall be a continuing obligation during the entire term of the franchise agreement.

(b) Hold Harmless Agreement. The Cable Operator shall indemnify and hold harmless the City, its councilors, officers, boards, commissions, agents, and employees against and from any and all claims, demands, causes of actions, actions, suits, proceedings, damages (including but not limited to damages to City property, damages arising out of copyright infringements, and damages arising out of any failure by the Cable Operator to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the Cable Operator's cable television system), costs or liabilities (including costs or liabilities of the City with respect to its employees), of every kind and nature whatsoever, including but not limited to damages for injury of death or damage to person or property, and regardless of the merit of any of the same, and against all liability to others, and against all loss, cost, and expense resulting or arising out of any of the same, including any attorney fees, accounting fees, expert witness or consultant fees, court costs, per them expense, traveling and transportation expense, or other costs or expense arising out of or pertaining to the construction, operation, maintenance, repair or service of the Cable Operator's cable system in the City or the exercise or the enjoyment of any franchise hereunder by the Cable Operator, or the granting thereof by the City.

(c) Defense of litigation. The Cable Operator shall at the sole risk and expense the Cable Operator, upon demand or the City, made by and through the City Attorney, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi-judicial, administrative, legislative, or otherwise, brought or instituted or had by third persons or duly constituted authorities, against or affecting the City, its councilors, officers, boards, commissions, agents, or employees, and arising out of or pertaining to the construction, operation, maintenance, repair or service of the Cable Operator's cable system in the City or the exercise or the enjoyment of such franchise, or the granting thereof by the City.

The Cable Operator shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive or demand rendered, made or issued against the Cable Operator, the City, its councilors, officers, boards, commissions, agents, or employees in any of

these premises; and such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy of insurance, deposit, undertaking or other assurance required hereunder, or otherwise; provided, that neither the Cable Operator nor City shall make or enter into any compromise or settlement of any claim, demand, cause of action, action, suit, or other proceeding, without first obtaining the written consent of the other.

(d) Insurance. The Cable Operator shall be required to maintain insurance in such forms and in such companies as shall be approved by the City, such approval not to be unreasonably withheld, to protect the City and the Cable Operator from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation, or maintenance of any aspect of the cable system. The amount of such Insurance shall be not less than as determined by the City Council.

Workmen's Compensation Insurance shall also be provided as required by the laws of the State of Maine.

All said insurance coverage shall provide a thirty (30) day notice to the City Clerk in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective.

Copies of all policies required hereunder shall be furnished to and filed with the City Clerk, prior to the commencement of construction or operation of the cable system or the expiration of prior policies as the case may be.

(e) Non-waiver. Neither the provisions of this Section, nor any bonds accepted by the City pursuant hereto, nor any damage recovered by the City thereunder, shall be construed to excuse unfaithful performance by the Cable Operator or limit the liability of the Cable Operator under this Article or the contract for damages, either to the full amount of the bond or otherwise. (Ord. 5/12/75, 4.)

#### Section 5-106. Application.

a) Any application for a cable television franchise or renewal of a franchise, in the City must contain the following information:

The name, address, and telephone, number of the applicant

A detailed statement of the corporate or other business entity organization of the applicant, including but not limited to, the following and to whatever extent required by the City.

The names, residence and business addresses of all officers, directors, and associates of the applicant.

The names, residence and business addresses of all officers, persons and entities having, controlling, or being entitled to have or control 1% or more of the ownership of the applicant and each parent or subsidiary of the applicant and the respective ownership share of each such person or entity.

The names and addresses of any parent or subsidiary of the applicant, namely, any other business entity owning or controlling applicant in whole or in part or owned or controlled in



whole or in part by the applicant, and a statement of the nature of any such parent or subsidiary business entity, including but not limited to cable television systems owned or controlled by the applicant, its parent and subsidiary and the areas served thereby.

A detailed description of all previous experience of the applicant in providing cable television system service and in related or similar fields.

A detailed and complete financial statement of the applicant, its parent and its subsidiaries, prepared by a certified public accountant, for the fiscal year next preceding the date of the application hereunder, or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the City Council, setting forth the basis for a study performed by such lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed system in the City, or a statement from a certified public accountant certifying that the applicant has available sufficient free, net and uncommitted cash resources to construct and operate the proposed system in the City.

A statement identifying, by place and date, any other cable television franchise(s) awarded to the applicant, its parent or subsidiary, the status of said franchise(s) with respect to completion thereof; the total cost of completion or such system(s); and the amount of applicant's and its parent's or subsidiary's resources committed to the completion thereof.

A detailed description of the proposed plan of operation of the applicant which shall include, but not be limited to, the following:

A detailed map indicating all areas proposed to be served, and a proposed construction time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served, and the time of commencement of construction and anticipated operation date.

A statement or schedule setting forth all proposed classifications of rates and charges to be made against subscribers and all rates and charges to be made against subscribers and all rates and charges as to each of said classifications, including installation charges and service charges and deposit agreement.

A detailed, informative, and referenced statement describing the actual equipment and operational standards proposed by the applicant. In no event shall said operational and performance standards be less than those contained in Title 47 C.F.R. Subpart K (Sections 76.601, et seq.), of the Rules and Regulations of the Federal Communications Commission, as amended in the future, and shall in addition comply with Section 5-112 herein.

A copy of the form of any agreement, undertaking, or other Instrument proposed to be entered into between the applicant and any subscriber and between the applicant and any lessee of any channel, including provisions for reimbursement in the event of interruption of service.

A detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any persons, firm, or corporation which materially relate or pertain to or depend upon the application and the granting of the contract

A detailed statement setting forth in its entirety the proposed system design. Such statement shall include proposals concerning system architecture, channel capacity, channel uses, access, programming facilities, studio location, point to point service, two-way service, subscriber privacy, and interconnection.

Such other information as required by the City at the time of the franchise application.

No franchise, including franchise renewals, will be granted hereunder without notice to the

public and a public hearing.  
(Ord. 5/12/75, §5.)

Section 5-107. Contract term, termination and renewal.

Term. Any franchise awarded by the Council under this Article shall be for a term of not more than ten (10) years. The Cable Operator shall have no right to renewal of a Franchise Agreement, but any renewal shall be in the sole discretion of the City Council acting in accordance with any applicable provisions of Maine or federal law.

Any renewal of a Franchise Agreement shall be upon such terms and conditions as may be mutually agreed upon by the Council and the Cable Operator, provided the Cable Operator has fulfilled all terms and conditions of any previous contract. Such renewal shall be for a period of not more than ten years from the expiration of the previous franchise. Prior to any renewal or extension of the franchise, Cable Operator must satisfy the Council at a public hearing that It has maintained or will improve the system to remain abreast of all current standards of service and quality.

Termination. The City may revoke or terminate any franchise awarded pursuant to the provisions of this Article or may impose reasonable penalties upon written notice to the Cable Operator, return receipt requested, and after hearing in the event that:

The Cable Operator violates any provision of this article or franchise agreement awarded hereunder, or any renewal order or determination made pursuant to this Article, except where such violation is without fault or through excusable neglect, as determined by the City Council. Termination under this paragraph shall take effect unless such violation is cured within thirty days of the aforesaid notice to the satisfaction of the Council expressed by resolution. The Cable Operator becomes insolvent, unable or unwilling to pay Its debts or is adjudged a bankrupt or, the Cable Operator attempts to evade any of the provisions of this Article or the Franchise Agreement or practices any fraud or deceit upon the City; or Other circumstances exist justifying termination under the terms of the franchise agreement as determined by the City Council.

Any appeal or challenge to a revocation or termination of a franchise agreement shall be to the Maine Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

Public Hearing - New Franchise and/or Renewal. Before authorizing the issuance of any such franchise agreement, including renewals, the Municipal Officers shall review the applicant's character, financial and technical qualifications, the proposed agreement's ability to meet current and future cable-related needs and interests, and the adequacy and feasibility of the applicant's qualifications to operate a cable television system within the City, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing. Such public hearing shall provide a reasonable opportunity for public input on the proposed franchise agreement or renewal.

Public Hearing - Transfer. Before approving any transfers of ownership, property or rights under franchise agreements, the Municipal Officers shall review the applicant's character, financial and technical qualifications, and the adequacy and feasibility of the applicant's qualifications to operate a Cable Television system within the City, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing. Such public hearing shall

provide a reasonable opportunity for public input on the proposed transfer.

(Ord. 5/12/75, 6.)

Section 5-108. Fees.

Bid bond and deposit the application for a franchise, as required elsewhere under this Article shall be accompanied by a Bid Bond in the amount of \$5,000.00, which shall be returned upon the awarding of a franchise with the City and receipt of a license to operate from the FCC. In addition, to partially pay City administrative costs including evaluating bid proposals, a nonrefundable \$500.00 deposit must accompany the application or bid proposal, to partially defray the costs of public notice, advertising and expenses of hearing.

Annual fee. In return for the rights and privileges contained in any franchise awarded pursuant to the provisions of this Article, the Cable Operator shall Pay to the City an annual franchise fee, assessed as a percentage of the Cable Operator's gross annual revenues, as stipulated in any such Franchise Agreement.

Method of computation. Payments due the City under the terms of the Article shall be computed quarterly as of September 30, December 31, March 31 and June 30 for the preceding quarter and shall be paid on or before the thirtieth calendar day from each said computation date at the office of the City Treasurer during his regular business hours. The City shall be furnished a statement with each payment, certified as correct by the Cable Operator and prepared by a Certified Public Accountant, reflecting the total amount of gross annual revenues generated by all activities within the City, and the above charges, deductions and computations, for the three months payment period covered by the payment.

Rights of recomputation. No acceptance or any payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable as a franchise fee under this Article or for the performance of any other obligation hereunder.

Failure to make required payment. Failure to pay any fees required by this Section shall result in automatic default or the franchise granted, and reinstatement thereof may be had only upon resolution by the Council, and payment of the delinquent fee or fees plus any interest or penalties as may be required by the resolution. (Ord. 5/12/75, 7.)

Section 5-109. Conditions of street occupancy.

Any work which requires disturbance of the surface of any street or which will interfere with traffic shall not be undertaken without the prior permission and approval of the manner or doing the work by the City Manager.

All poles, fixtures, wires, structures, lines and equipment erected by the Cable Operator within the City shall be so located as to cause minimum interference with the proper use of streets, alleys, easements and other public ways and places, and to cause minimum interference with the rights of reasonable convenience of property owners who join any of the said streets, alleys, or other public ways and places. Existing poles, posts and other such structures of the electric power company or any telephone company or any other public utility which may be available to the Cable Operator for leasing or licensing shall be used to the extent practicable in order to minimize interference with travel.

(c) The Cable Operator shall have the right and authority to trim, cut and keep clear trees and bushes upon and overhanging all[ streets, alleys, easements, sidewalks and public places In the City so as to keep same clear of its poles, wires, cables, conduits and fixtures; provided that, except for incidental trimming done by the Cable Operator's employees in the course of

performing their other duties, any tree trimming done by the Cable Operator shall be subject to Grantor's prior approval.

(d) In the case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Cable Operator shall, at its own cost and expense in a manner provided and approved by the City Manager, replace and restore all paving, sidewalk, driveway or surfacing so disturbed in as good condition as before said work was commenced.

(e) If at any time during the period of a Franchise Agreement the City shall lawfully elect to alter or change any street, alley, easement or other public way requiring the relocation of the facilities of Cable Operator, then in such event the Cable Operator, upon reasonable written notice by the City, shall remove, relay, and relocate the same at the Cable Operator's expense.

(f) Cable Operator shall, upon the request of any person holding a building moving permit issued by the City temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Cable Operator shall have the authority to require such payment in advance. The Cable Operator shall be given not less than ninety-six (96) hours advance notice to arrange for such temporary wire changes. (Ord. 5/12/75, §10)

#### Section 5-110. Operation, service and maintenance of system.

(a) The Cable Operator shall construct, maintain and operate a cable television system safely and render efficient service to subscribers during the term of this license.

(b) Licensee shall construct, upgrade, install, operate, maintain and remove the Cable Television System in conformance with Occupational Safety and Health Administration regulations, the Maine Electrical Code, the National Electric Code, the NCTA Safety Manual, the National Electric Safety Code, the Bell Telephone System Code of Pole Line Construction, the rules and regulations of the FCC, all building and zoning codes, and all land use restrictions as they may now exist or may be amended or adopted hereafter.

(c) Any tower constructed for use in the Cable Operator's cable television system shall comply with the standards contained in "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures", TIA/EIA-222-F as published by the Telecommunications Industry Association, 2500 Wilson Blvd., Arlington, VA 22201.

(d) Installation and physical dimensions of any tower constructed for use in the Cable Operator's cable television system shall comply with all appropriate Federal Aviation Agency regulations, including, but not limited to, "Objects Affecting Navigable Airspace", 14 C.F.R. 77.1 et seq., as they now exist or may be amended or adopted hereafter.

(e) Any antenna structure used, in the Cable Operator's cable television system shall comply with "Construction, Marking, and Lighting of Antenna Structures", 47 C.F.R. 17.1 et seq., as said regulations now exist or may be amended hereafter.

(f) The Cable Operator shall install and maintain its wire, cable, mixtures and other equipment in accordance with the requirements of the ordinances or the City as may be amended, and in such a manner which shall not interfere with any installations of the City or any public utility serving the City. (Ord. 5/12/75, §11.)

#### Section 5-111. Preferential or discriminatory practices prohibited.

(a) The Cable Operator shall not, as to rates, charges, service, service facilities, rules, regulations, or in any other respect, make or grant any undue preference or advantage to any person, nor subject any person to any prejudice or disadvantage.

(b) Upon application to the City for a cable television franchise or franchise renewal the applicant shall submit Its equal employment opportunity program and affirmative action plan for the hiring of women and minorities. Any successful applicant shall zealously pursue the ends of this program during the term of its franchise. (Ord. 5/12/75, §12 .)

#### Section 5-112 New developments.

It shall be the policy of the City liberally to amend this Article, upon application of the Cable Operator, when necessary to enable the Cable Operator to take advantage of any developments In the field of transmission of television and radio signals which will afford It an opportunity more effectively, efficiently or economically to serve its customers; provided, however, that this Section shall not be construed to require the City to make any amendment or to prohibit it from unilaterally amending this Article. (Ord. 5/12/75, §14)

#### Section 5-113. Reports and records.

The City may require the Cable Operator to maintain and file such reports, contracts and statements, including but not limited to ownership, accounting, auditing and operating statement, engineering reports, and other data which the City shall deem necessary or appropriate to administer the provisions of this article.

The Cable Operator shall provide annually to this City:

Copies of all other orders, rules, regulations or reports that are filed or required to be filed with other regulatory agencies, including the State and Federal Government.

An ownership report, Indicating all persons who at any time during the preceding year did control or benefit from an Interest In the contract or the Cable Operator or any parent of Cable Operator of one per cent (1%) or more and all creditors, secured and unsecured, in excess of One Thousand Dollars (\$1,000.00); and

Such further documents, reports or information as may be required by the terms of the Franchise Agreement with the Cable Operator. All of the above information shall be deemed public documents and may be examined at reasonable times at written request.

Records which shall be available to the City shall include, but not be limited to:

All correspondence among the Cable Operator and any of his agents, and all regulators or other government agencies.

All reports, application' s, and other documents sent to, or required by, any government agency.

All oral and written complaints received by the cable operator or the Cable Operator or his agents for the preceding years of the term of the franchise, and the disposition thereof.

A log of all requests for access time and the disposition of those requests.

All financial records reasonably necessary to determine compliance with and carry out the provisions of this Article and any franchise agreement



(Ord 5/12/75, §14.)

Section 5-114. Rights reserved to the City.

(a) Nothing herein shall be deemed or construed to impair or affect, in any way, to any extent, the right of the City to acquire the property of the Cable Operator, either by purchase or through the exercise of the right of eminent domain and nothing herein contained shall be construed to contact away or to modify or abridge, whether for a term or in perpetuity, the City's right of eminent domain.

(b) There is hereby reserved to the City every right and power which is required to be herein reserved or provided by any law, and the Cable Operator, awarded a franchise pursuant to the provisions of this Article agrees to be bound thereby and to comply with any action or requirements of the City in its exercise of such rights or power, heretofore or hereafter enacted or established.

(c) There is hereby, reserved to the City the power to amend any section of this Article so as to require additional or greater standards of construction, operation, maintenance or otherwise, subject only to preemption by the FCC, on the part of the Cable Operator to reflect technical and economic changes occurring during the franchise term, and to enable the City and the Cable Operator to take advantage of new developments in the cable television industry so as to more effectively, efficiently and economically serve the public.

(d) Neither the awarding of a franchise nor any provision hereof shall constitute a waiver or bar to the exercise of any governmental right or power of the City.

(e) The City may do all things which are necessary and convenient in the exercise of its jurisdiction under this Article and may determine any question of fact which may arise during the existence of any franchise granted hereunder. The City, with the approval of the City Solicitor, is hereby authorized and empowered to adjust, settle, or compromise any controversy or charge arising from the operations of the Cable Operator under this article, either on behalf of the City, the Cable Operator, or any subscriber, in the best interest of the public.

(f) The City shall have the right to inspect all construction of installation work for a cable television System and to make such inspections as it shall find necessary to insure compliance with the terms of this Article, and franchise awarded pursuant hereto, and any other pertinent provisions of the law.

(g) At the expiration of the term for any cable television franchise, or upon its termination for other reasons as provided for herein, the City shall have the right to require the Cable Operator to remove at its own expense all portions of the cable communication system from all streets and public ways within the City.

(h) Nothing in this Article or the franchise shall encumber or prohibit the City from the collection of property taxes, or whatsoever kind, allowed by state law. (Ord. 5/12/75, §16)

Section 5-115. Right to appeal reserved to the Cable Operator.

Should the Cable Operator become dissatisfied with any major decision or ruling of any City official, the Cable Operator may appeal the matter to the City Council. The City Council may accept, reject or modify the decision appealed and may adjust, settle or compromise any controversy or cancel any charge arising from the operations of the Cable Operator or from any provision of this Article or any Franchise Agreement entered into pursuant to this Article. (Ord. 5/12/75, §17.)

#### Section 5-116 Rules, regulations and procedures.

Except where specifically provided otherwise, the City shall devise, promulgate and administer all rules, regulations and procedures which may be needed to implement any or all sections of this Article and any or all sections of any franchise agreement, not inconsistent therewith, granted pursuant to this Article. Any such rules, regulations, and procedures shall be binding on the Cable Operator operating a cable communications system in the City. (Ord. 5/12/75 §18)

The Municipal Officers of the City shall, either directly or through their designees:

Adopt such ordinance rules and regulations as they may deem necessary for regulating the operation of a cable television system;

Make recommendations to the Cable Operator concerning educational and local interest programming;

Resolve complaints, disputes or disagreements between subscribers and the Cable Operator;

Conduct public hearings and issue such appropriate orders as it may deem necessary to enforce the provisions of this Ordinance and any regulations, rules and orders and franchise agreements, including the revocation of franchise agreements and the assessment of penalties for violations, as well as to correct any deficiencies in the operation of the system. The Municipal Officers' decisions and findings shall be final and binding upon all parties including the Cable Operator, except such decision or finding may be appealed to the Superior Court pursuant to Rule 80B, M.R.Civ.P.

All such ordinances, regulations, rules and orders of the Municipal Officers shall not be in conflict with those that have been or may be adopted by the Federal Communications Commission for the operation of such systems, except that unless expressly preempted, such ordinances, regulations, rules and orders may be more detailed, more strict or more restrictive than applicable FCC regulations; and

As part of its enforcement authority, the Municipal Officers have the authority to bring legal action for damages, penalties and for injunctive relief. The City shall be entitled to recover its costs, including reasonable attorneys fees, incurred in the enforcement of this Ordinance, the provisions of a franchise agreement, or any local rules or regulations adopted pursuant to this Ordinance.

#### Section 5-117 Regulation of Basic Service Rates and Charges

Pursuant to the Cable Television Consumer Protection and Competition Act of 1992, and in accordance with FCC prescribed regulations In the Report and Order, In the Matter of

Implementation of Sections of Cable Television Consumer Protection and Competition Act of 1992.- Rate Regulation, MM: Docket 92-266, FCC 93-177 (released May 3, 1993), the City of Bath as a franchising authority, with the legal authority to adopt, and the personnel to administer, regulations with respect to Basic Service Rates and Charges, does hereby exercise that authority and indicate its intent and desire to regulate Basic Service Rates and Charges of any franchise holder. Such regulations shall be In accordance with the following:

1. The City will follow the FCC Rate Regulations in its regulation of the Basic Service Rates and Charges of the Cable Operator and any other cable television system operating in the City, notwithstanding any different or inconsistent provisions In the Franchise Agreement or this Ordinance; and

2. In connection with such regulation, the City will ensure a reasonable opportunity for consideration of the views of interested parties; and

3. The City council chairman and the City Manager are authorized to execute on behalf of the City and file with the FCC such certification forms and other instruments as are now or may hereafter be required by the FCC Rate Regulations In order to enable the City to regulate Basic Service Rates and Charges.

(Ord. 12-8-93 #93-25)

Section 5-118. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Article or franchise granted hereunder is for any, reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provisions and such holding shall not affect the validity of the remaining portions thereof, and such Invalid portions are hereby repealed. Such invalid portions shall be renegotiated by the City Council and the Cable Operator and, where applicable, the FCC (Ord. 5/12/75 §19 )

Section 5-119 through Section 5-130. Reserved.

## **ARTICLE 11. AMBULANCES AND AMBULANCE SERVICES.**

Section 5-131. Definitions.

(a) Unless otherwise specified, the term:

1 . Ambulance means any motor vehicle that is designed, constructed, used or intended to be used for the transportation of patients.

2. Attendant means a trained and/or qualified individual responsible for the operation of an ambulance and the care of the patients whether or not the attendant also serves as driver.

3. Attendant-driver means an individual who is qualified as an attendant also serves as driver.

4. Driver means an individual who drives an ambulance.

(Ord. 3/1/78, §1.)



## Section 5-132. License required.

(a) No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of the transportation of patients upon the streets, alleys, or any public way or place of the City unless he holds a currently valid license for an ambulance, issued pursuant to this Article. An ambulance operated by an agency of the United States shall not be required to be licensed hereunder.

(b) No ambulance shall be operated, and no individual shall drive, attend or permit it to be operated on the streets, alleys, or any public way or place of the City unless it shall be under the immediate supervision and direction of a person who is holding a currently valid license as a driver, attendant-driver or attendant.

(c) Provided however, that no such licenses shall be required for an ambulance, or for the driver, attendant or attendant-driver of an ambulance, which:

(1 ) Is rendering assistance to licensed ambulances in the case of a major catastrophe or emergency with which the licensed ambulances of the City are insufficient or unable to cope; or

(2) Is operated from a location or headquarters outside of the City in order to transport patients who are picked up beyond the limits of the City to locations within the City, or to transport patients who are picked up within the City to locations beyond the limits of the City but no such outside ambulance shall be used to pick up patients within the City for transportation to locations within the City unless the driver, attendant or attendant-driver and the person subject to the provisions of Section 5-142(b) of this Article in respect of such ambulance, hold currently valid licenses issued pursuant to this Article.

(Ord. 3/1/78, §2.)

## Section 5-133. Application for ambulance license.

(a) Applications for ambulance licenses hereunder shall be made upon such forms as may be prescribed or offered by the City Council and shall contain:

(1) The name and address of the applicant and the owner of the ambulance.

(2) The trade or other name, if any, under which the applicant does business and proposes to do business.

(3) The training and experience of the applicant in the transportation and care of patients.

(4) A description of each ambulance, including the make, model, year of manufacture, motor and chassis number; current State license number; the length of time the ambulance has been in use; and the color scheme, insignia, name, monogram or other distinguishing characteristics to be used to designate applicant's ambulance.

(5) The location and description of the place or places from which it is intended to operate.

(6) Such other information as the City Council shall deem reasonably necessary to a fair determination of compliance with this Article.

(7) An accompanying license fee of Fifty Dollars (\$50.00) for the first vehicle and Twenty Five Dollars (\$25.00) for each additional vehicle. (Ord.3/1/78,§3.)

Section 5-134. Standards for ambulance license.

- (a) Each ambulance shall, at all times when in use as such,
  - (1) Conform with all applicable State law and with the standards, requirements and regulations provided for in this Article for the transportation of patients, from the standpoint of health, sanitation, and safety, and the nature of the premises in which it is maintained;
  - (2) Contain equipment conforming with all applicable State laws and with the standards, requirements and regulations provided for herein, which equipment shall be in proper and good condition for such use;
  - (3) Currently comply with all applicable laws and local ordinances relating to health, sanitation and safety; and
  - (4) Be equipped with such lights, sirens and special markings to designate it as an ambulance as may be prescribed in all applicable State laws and in reasonable regulations provided for by the City Council; and
- (b) Any change of ownership of a licensed ambulance shall terminate the license and shall require a new application and a new license and conformance with all the requirements of this Article as upon original licensing.
- (c) Application for transfer of any ambulance license to another or substitute vehicle shall require conformance with all the requirements of this Article as upon original licensing. No ambulance license may be sold, assigned, mortgaged or otherwise transferred without approval of the City Council and a finding of conformance with all the requirements of this Article as upon original licensing.
- (d) Each licensed ambulance, its equipment and the premises designated in the application and all records relating to its maintenance and operation as such, shall be open to inspection by the Chief of Police during usual hours of operation.
- (e) No official entry made upon a license may be defaced, removed or obliterated.  
(Ord. 3/1/78,§4.)

Section 5-135. Liability insurance.

- (a) No ambulance license shall be issued under this Article, nor shall such license be valid after issuance, nor shall any ambulance be operated in the city, unless there is at all times in force and effect insurance coverage, issued by an insurance company licensed to do business in the State, for each and every ambulance owned and/or operated by or for the applicant or licensee, providing
  - (1) For injury to or death of individuals in accidents resulting from any cause for which the owner of said ambulance would be liable on account of liability imposed on him by law, regardless of whether the ambulance was being driven by the owner or his agent, and
  - (2) Against damage to the property of another, including personal property, under like circumstances, in such sums and under such terms as may be required by statute.

(b) Every insurance policy required hereunder shall contain a provision for a continuing liability thereunder to the full amount thereof, notwithstanding any recovery thereon, that the liability of the insurer shall not be affected by the insolvency or the bankruptcy of the assured, and that until the policy is revoked the insurance company will not be relieved from liability on account of nonpayment of premium, failure to renew license at the end of the year, or any act or omission of the named assured.

(c) Every insurance policy required hereunder shall extend for the period to be covered by the license applied for and the insurer shall be obliged to give not less than ten (10) days written notice to the City Clerk and to the assured before any cancellation or termination of the policy earlier than its expiration date and the cancellation or other termination of any such policy shall automatically revoke and terminate the licenses issued for the ambulance covered by such policy, unless another insurance policy complying with the provisions of this Section shall be provided and be in effect at the time of such cancellation or termination.

(d) Every insurance policy required hereunder shall have at least the following coverage: bodily injury liability limits of Three Hundred Thousand Dollars (\$300,000.00) combined single limit in the same accident; and property damage liability limit of three Hundred thousand Dollars (\$300,000.00).  
(Ord. 3/1/78, §5.)

#### Section 5-136. Issuance of license.

(a) The Clerk shall, within ten days after receipt of an application for an ambulance license as provided for herein, cause such investigation as he deems necessary to be made of the applicant and of his proposed operations.

(b) The City Clerk shall issue a license hereunder for a specified ambulance, to be valid for a period of one year unless earlier suspended, revoked or terminated, when he finds that:

(1) Each such ambulance, its required equipment and the premises designated in the application, comply with the standards prescribed in this Article and with the regulations promulgated under such Section;

(2) The applicant is a responsible and proper person to conduct or work in the proposed business;

(3) Only duly licensed drivers and attendants are employed in such capacities ;  
and

(4) All the requirements of this Article and all other applicable laws and ordinances have been met.

(Ord. 3/1/78, §6)

#### Section 5-137. Inspections.

(a) Prior to the issuance of any ambulance license hereunder, the Fire Chief and Police Chief shall inspect or cause to be inspected the vehicles, equipment and premises designated in each application hereunder, to determine compliance with the standards prescribed in Section 5-134(a) and in Section 5-138 of this Article, and with the regulations explained in such Sections.

(b) Subsequent to issuance of any ambulance license hereunder, the Chief of Police and the Fire Chief shall cause to be inspected each such licensed vehicle, and its equipment and premises, whenever he deems such inspection to be necessary but in any event no less frequently than twice each year. The periodic inspection required hereunder shall be in addition to any other safety or motor vehicle inspection required to be made for ambulances or other motor vehicles, or other inspections required to be made, under general law or ordinances, and shall not excuse compliance with any requirement of law or ordinance to display any official certificate of motor vehicle inspection and approval nor excuse compliance with the requirements of any other applicable general law or ordinance.

(c) A copy of each initial, semiannual or other ambulance, equipment and premises inspection report by the license officer under the provisions of this section shall be promptly transmitted to the applicant or licensee to whom it refers.  
(Ord. 3/1/78, §7.)

#### Section 5-138. Ambulance equipment.

(a) Required equipment in each ambulance shall include, at all times when the ambulance is in use as such, equipment adequate in the judgment of the Health Officer for dressing wounds, splinting fractures, controlling hemorrhage, and providing oxygen, and all other equipment required by State law.

(b) The Health Officer is authorized and directed, after public notice and opportunity for public hearing, to certify to the license officer standards for ambulance equipment to implement the standards provided herein as to required equipment for ambulances. In determining the adequacy of equipment, the health officer shall take into consideration the current list of minimal equipment for ambulances, adopted by the American College of Surgeons or its duly authorized committee on trauma.  
(Ord. 3/1/78, §8.)

#### Section 5-139. Renewal of license.

Renewal of any license hereunder, upon expiration for any reason or after revocation, shall require conformance with all the requirements of this Article as upon original licensing.  
(Ord. 3/1/78, §9)

#### Section 5-140. Revocation of license..

(a) The City Manager may, and is hereby authorized to, suspend or revoke a license issued hereunder for failure of a licensee to comply and to maintain compliance with or for his violation of, any applicable provision, standards, requirements, or regulations of this Article, or of any other applicable laws, ordinances or regulations. Within ten (10) days after a suspension, the licensee shall be afforded a hearing, after reasonable notice. The City Manager shall, within twenty days after conclusion of such hearing, issue a written decision (which shall include written findings) as to the suspension of said license. Such written decision shall be promptly transmitted to the licensee to whom it refers.

(b) The initial, semiannual or other ambulance, equipment and premise inspection reports of the Chief of Police, Fire Chief and the Health Officer herein provided for shall be prima facie evidence of compliance or noncompliance with, or violation of, the provisions, standards and requirements provided herein, and of the regulations promulgated hereunder, for the licensing of ambulances.

(c) Upon suspension, revocation or termination of an ambulance license hereunder, operations as such shall cease with such ambulance and no person shall permit continued operation with such ambulance as such. Upon suspension, revocation or termination of a driver's, attendant's or attendant-driver's license hereunder, such driver, attendant or attendant-driver shall cease to drive or attend an ambulance and no person shall employ or permit such individual to drive or attend an ambulance.

(Ord. 3/1/78, §10)

#### Section 5-141. Reports.

(a) Each licensee of an ambulance hereunder shall maintain accurate records, upon such forms as may be provided or prescribed by and containing such information as may be required by, the City Clerk concerning the transportation of each patient within the City or from one place herein to another place within or beyond its limits. Such records shall be available for inspection by the City Manager and Chief of Police at any reasonable time and copies thereof shall be filed by the licensee within twenty-four (24) hours upon request by the City Manager and Chief of Police.

(b) The provisions of Subsection (a) of this Section shall apply with equal force in case the patient shall die before being so transported in such ambulance or dies while being transported therein or at any time prior to the acceptance of the patient into the responsibility of the hospital or medical or other authority if the patient is still under the care or responsibility of the ambulance licensee.

(Ord. 3/1/78, §11)

#### Section 5-142. Ambulances, operation of.

(a) No person shall operate an ambulance, which shall include any motor vehicle primarily designed and used for conveyance of sick or injured persons, in a manner not conforming to a provision of the motor vehicle laws and regulations of this State or of this City as such provision applies to motor vehicles in general, except in compliance with the following conditions:

(1) The person operating the ambulance shall be either responding to a bona fide emergency call or specifically directed by a licensed physician to disregard traffic laws in operating the ambulance during and for the purpose of the specific trip or journey that is involved;

(2) The ambulance shall be equipped with a siren producing an audible signal of an intensity of one hundred decibels at a distance of fifty feet from said siren, and with a lamp emitting an oscillating, rotating or flashing red beam directed in part toward the front of the vehicle and containing a power rating of at least one hundred (100) amperes;

(3) The aforesaid siren and lamp shall be in full operation at all times during such trip or

journey; and

(4) Whenever the ambulance is operated at a speed in excess of forty miles per hour, the ambulance shall be operated in complete conformance with every other motor vehicle law and regulation of this State and of this City in which the ambulance is operated, relating to the operation of motor vehicles, as such provision applies to motor vehicles in general, except laws and regulations pertaining to compliance with official traffic-control devices or to vehicular operation upon the right half of the roadway. (Ord. 3/1/78, §12)

Section 5-143. Penalty.

Any person, firm or corporation violating any provision of this Article shall be fined not less than Five Dollars (\$5.00) nor more than Five Hundred Dollars for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 3/1/78 §13)

Section 5-144. Rates.

The City Council of the City of Bath shall from time to time determine the rates to be charged on all services rendered by ambulance services subject to this Article. Any such rate shall be set by Resolution of the City Council as they may from time to time deem necessary. (Ord. 3/1/78 §14)

Section 5-145. Separability clause.

If any provision of this Article or portion thereof, or the application thereof, to any particular person or circumstances, is held to be invalid by a Court of competent jurisdiction, or any regulatory agency, the remainder of the Article, including the remainder of any such provision, and the application thereof, shall not be adversely affected thereby. (Ord. 3/1/78 §15)

Sections 5-146 through 5-200. Reserved.

**ARTICLE 12.**  
**REGULATING THE ISSUANCE OF**  
**SPECIAL AMUSEMENT PERMITS**  
**FOR ESTABLISHMENTS LICENSED FOR THE SALE OF LIQUOR**

Section 5-201. Purpose.

Purpose of this Article is to control the issuances of special permits for music, dancing or entertainment and facilities licensed by the State of Maine to sell liquor, as such special permits are required by 28-A M.R.S.A. §1054. (Ord. 6/18/78)(Ord.5/6/09)

Section 5-202. Definitions.

(a) Entertainment. For the purposes of this Article, shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether

provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

(b) Licensee. For the purpose of this Article, licensee shall include the holder of a license issued under the Alcoholic Beverages Statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation, or other legal entity, or any agent or employee of any such licensee.

(Ord. 6/28/78.)

#### Section 5-203. Permit Required.

No licensee for the sale of liquor to be consumed on his licensed premises shall permit, on his licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the municipality in which the licensed premises are situated a special amusement permit signed by at least a majority of the municipal officers.

(Ord. 6/28/78.)

#### Section 5-204. Applications.

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; his residence address; the name of the business to be conducted; his business address; the matter of his business; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; and any additional information as may be needed by the municipal officers in the issuing of the permit, including but not limited to a copy of the applicant's current liquor license.

(Ord. of 6-28-78)

#### Section 5-205. Permit fee.

The fee for a special amusement permit shall be set by the City Council, and from time to time adjusted as circumstances and need warrant, by Resolution of the City Council.

(Ord. of 6-28-78)

#### Section 5-206. Hearing.

(a) The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within fifteen (15) days of the date of the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

(b) Upon receipt of a renewal special amusement permit by the City, notification will be made to the City Council of such receipt. If the municipal officers do not request a public hearing on the renewal application within forty-eight (48) hours of notification, the City Manager shall be authorized to approve such permit on behalf of the municipal officers.



(Ord. of 6-28-78; Ord. No. 83-28, 11-16-83)

#### Section 207. Issuance of permit.

(a) No permit shall be issued for any thing, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the municipality.

(b) The municipal officers shall grant a permit unless they find that issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, or rules and regulations, articles, or bylaws.

(Ord. of 6-28-78)

#### Section 5-208. Term of permit.

The term of any permit issued under this chapter shall coincide with and be valid only for the license year of the applicant's existing liquor license.

(Ord. of 6-28-78)

#### Section 5-209. Notification of decision.

Any licensee requesting a special amusement permit from the municipal officers shall be notified in writing of their decision no later than fifteen (15) days from the date his request was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within thirty (30) days after an application for a permit which has been denied.

(Ord. of 6-28-78)

#### Section 5-210. Appeal procedure.

Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within thirty (30) days of the denial, suspension or revocation, appeal the decision to the municipal board of appeals as defined in 30-A M.R.S.A. §2691. The municipal board of appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety, or welfare, or that the denial, revocation or suspension was arbitrary or capricious, or that the denial, revocation, or suspension was not based by preponderance of the evidence on a violation of any ordinance, article, bylaw, or rule or regulation of the municipality. (Ord. of 6-28-78)(Ord. 5/6/09)

#### Section 5-211. Inspections.

Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are provided for or required by ordinance or state law, or are reasonably necessary to secure compliance with any ordinance provision or state law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official or employee of the municipality authorized to make the inspection at any reasonable time that admission is required.



(Ord. of 6-28-78)

Section 5-212. Suspension or revocation of a permit.

The municipal officers may, after a public hearing preceded by notice to interested parties, suspend, or revoke any special amusement permits which have been issued under this article on the grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety, or welfare, or violates any municipal ordinance, articles, bylaws, or rules and regulations, or creates a public nuisance.

(Ord. of 6-28-78)

Section 5-213. Rules and regulations.

The municipal officers are hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension, and revocation of special amusement permits, the classes of permits, the music, dancing, or entertainment permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities are permitted. (Ord. of 6-28-78)

Section 5-214. Admission fees.

A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission fees for those areas designated as approved by the municipal special amusement permit. (Ord. of 6-28-78)

Section 5-215. Penalty.

Whoever violates any of the provisions of this article shall be punished by a fine of not more than one hundred dollars (\$100.00) for the first offense, and up to five hundred dollars (\$500.00) for the subsequent offenses, to be recovered, on complaint, to the use of the city.

(Ord. of 6-28-78)

Section 5-216. Separability.

The invalidity of any provision of this article shall not invalidate any other part. (Ord. of 6-28-78)

Sections 5-217 through 5-300. Reserved.

### **ARTICLE 13. VICTUALERS.**

Section 5-301. Definitions.

(a) As used in this Article:

(1) EATING PLACE shall mean any place where food or drink is prepared and served or served to the public for consumption on the premises, or catering establishments, or establishments preparing foods for vending machines dispensing foods other than in original sealed packages, such as: hotels, motels, boarding houses, fixed or mobile restaurants, coffee shops, cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich shops, soda fountains, bars, cocktail lounges, night clubs, road-side stands, industrial feeding establishments, stores, theaters, and other catering or drinking establishments or operations where food is prepared and served or served for consumption on the premises, and catering establishments where food is prepared, or where foods are prepared for vending machines dispensing foods other than in original sealed packages. The words "eating place" shall not be construed to apply to stores selling food or beverages to be taken from the premises where only soft drinks are permitted to be consumed on the premises, nor to any other store where there is not an express invitation to consume any food on the premises, provided however that such stores which also engage in the preparation of food shall not be exempt from this Article. An "eating place" shall specifically include a mobile food service unit as defined herein.

(2) EMPLOYEE shall mean any person working in a food-service establishment, who transports food or food containers, who engages in food preparation or service, or who comes in contact with any food utensils or equipment, and shall include the proprietor or manager or any member of his family, if they handle said food or drink as well as any other person employed in or about eating places, and any catering establishment or establishments preparing foods for vending machines dispensing foods other than in original packages.

(3) VICTUALER shall be deemed to mean any person operating an eating place where food is prepared and/or served to the general public.

(4) EASILY CLEANABLE means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

(5) MOBILE FOOD SERVICE UNIT shall mean a unit including a motor vehicle or a pushcart or stand or any other such unit designed and constructed to transport, prepare, sell or serve food at a number of sites and which shall be capable of being moved from its serving site.

(6) POTENTIALLY HAZARDOUS FOODS means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or their ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic micro-organisms. The term does not include clean, whole, uncracked, odor-free shell eggs.

(7) SANITIZATION means effective bactericidal treatment by a process that provides enough accumulative heat or concentrations of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

(8) SINGLE-SERVICE ARTICLES shall mean cups, containers, lids or closures; plates, knives, forks, spoons, stirrers, paddles, straws, place mats, napkins, doilies, wrapping materials; and all similar articles which are constructed wholly or in part from paper, paper board, molded

pulp, foil, wood, plastic synthetic, or other readily destructible materials, and which are intended by the manufacturers and generally recognized by the public as for one usage only, then to be discarded.

(9) CATERING ESTABLISHMENTS means any kitchen, commissary or similar place in which food or drink is prepared for sale or service elsewhere or for food service in the premises during special catered events. Ord. (4-5-81)

Section 5-302. License required; bond; expiration.

(a) No person shall engage in the business of victualer without first obtaining a license therefore.

(b) All licenses issued under this Article shall expire on the thirty-first of May after the date of issuance.

(c) Such license shall not be granted except on the certification of the Health Officer and Fire Chief. (Ord. 4/5/81)

Section 5-303. Communicable diseases.

No person while affected with and disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores, or any acute respiratory infection, shall work in any area of a food-service establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms, or transmitting disease to other individuals. No person known or suspected of being affected with any such disease or condition shall be employed in such an area or capacity, and shall not be retained as employee in or about any part of an eating place after written notice, that such employee is a carrier of a communicable disease, has been sent the proprietor by the local health officer.

Section 5-304. Sanitation of premises; cleaning.

(a) Every operator of an eating place shall keep the establishment and all substances used therein for food or drink on a clean and sanitary condition, free from dirt, dust and insects, and its premises shall be kept neat, clean and free of litter and rubbish.

(b) Cleaning operations shall be conducted in such a manner as to minimize contamination of food and food-contact surfaces. (Ord/ 4-5-81)

Section 5-305. Sleeping equipment.

Sleeping equipment shall not be allowed in any room where food is prepared, served or stored. (Ord. 4-5-81)

Section 5-306. Linen and clothing.

Soiled linens, coats and aprons shall be kept in suitable covered metal or plastic containers or

laundry bags until removed for laundering.

Adequate facilities shall be provided for the orderly storage of employees' clothing and personal belongings. Such designated facilities shall be located outside of the food-preparation, food storage, and serving areas. (Ord. 4-5-81)

#### Section 5-307. Animals prohibited; exception.

No live birds or animals shall be allowed in any area used for the conduct of food-service establishment operations; provided that guide dogs accompanying blind persons may be permitted in dining areas. (Ord. 4-5-81)

#### Section 5-308. Floors and walls.

(a) The floor surfaces in kitchens, mobile eating places, in all other rooms and areas in which food is stored or prepared and in which utensils are washed, and in walk-in refrigerators, dressing or locker rooms, and toilet rooms, shall be of smooth, non-absorbent, and easily cleanable materials such as concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or tight wood painted or impregnated with plastic; provided, that the floors of nonrefrigerated, dry-food-storage areas need not be nonabsorbent. All floors shall be kept clean and in good repair.

(b) The walls and ceilings of all rooms shall be kept clean and in good repair. All walls of rooms and areas in which food is prepared, or utensils or hands are washed, shall be easily cleanable, smooth, and light-colored, and shall have washable surfaces up to the highest level reached by splash or spray. (Ord. 4-5-81)

#### Section 5-309. Protection of food from contamination; storage.

(a) All food while being stored, prepared, displayed, served, or catered, vended, or sold at food-service establishments, or during transportation between such establishment, shall be protected from contamination. All perishable food shall be stored at such temperatures as will protect against spoilage. Fish salads, meat salads, poultry salads, potato salads, egg salads, cream-filled pastries, custards, custard pies and other potentially hazardous prepared food shall be maintained at safe temperatures (45°F; or below 140°F or above), except during necessary periods of preparation and service. Raw fruits and vegetables shall be washed before use. Stuffing, poultry, stuffed meats and poultry, and pork and pork products shall be thoroughly cooked before being served. Individual portions of food once served to a customer shall not be served again; provided that wrapped food, other than potentially hazardous food, which is still wholesome and has not been unwrapped, may be re-served.

(b) The refrigerator, ice box, cooling units, or other places where food is stored or kept shall be maintained in a clean and sanitary condition at all times.

(c) containers of food shall be stored above the floor, on clean racks, doilies, or other clean surfaces, in such a manner as to be protected from splash and other contamination.

(d) Where unwrapped food is placed on display in all types of food-service operations, it shall be protected against contamination from customers and other sources by effective, easily cleanable, counter-protector devices, cabinets, display cases, containers, or other similar types of protective equipment. Self-service openings in counter guards shall be so designed and arranged as to protect food from manual contact by customers.

#### Section 5-310. Serving Utensils.

Tongs, forks, spoons, picks, spatulas, scoops, and other suitable utensils shall be provided and shall be used by employees to reduce manual contact with food to a minimum. For self-service by customers, similar implements shall be provided.

#### Section 5-311. Use of toxic materials.

Only such poisonous and toxic materials as are required to maintain sanitary conditions and for sanitization purposes may be used or stored in food-service establishments. Poisonous and toxic materials shall be identified, and shall be used in such manner and under such conditions as will not contaminate foods or constitute a hazard to employees or customers.

#### Section 5-312. Garbage and rubbish storage; disposal.

(a) All garbage and rubbish containing food wastes shall, prior to disposal, be kept in leakproof, nonabsorbent containers which shall be kept covered with tight-fitting lids when filled or stored, or not in continuous use; provided that such containers need not be covered when stored in a special vermin-proofed room or enclosure, or in a food-waste refrigerator. All other rubbish shall be stored in containers, rooms, or areas in an approved manner. The rooms, enclosures, areas, and containers used shall be adequate for the storage of all food waste and rubbish accumulating on the premises. Adequate cleaning facilities shall be provided, and each container, room or area shall be thoroughly cleaned after the emptying or removal of garbage and rubbish. Food-waste grinders, if used, shall be installed in compliance with State and local standards and shall be of suitable construction.

(b) All garbage and rubbish shall be disposed of with sufficient frequency and in such a manner as to prevent a nuisance.

(c) Those establishments using dumpsters to contain garbage and rubbish shall, prior to the storage of such garbage and rubbish in the dumpster unit, contain all food wastes in leak-proof, nonabsorbent containers. It is the intention of this section to require all garbage and rubbish stored in a dumpster unit prior to disposal to be in the appropriate container. The dumpster lid should be closed at all times except when the dumpster is being filled or emptied. All dumpsters shall be cleaned when emptied.

#### Section 5-313. Vermin Control.

Effective measures shall be taken to protect against the entrance into the establishment and the breeding or presence on the premises of vermin.

Section 5-314. Lighting of premises required; standards.

(a) All areas in which food is prepared or stored or utensils are washed, hand-washing areas, dressing or locker rooms, toilet rooms, and garbage and rubbish storage areas shall be well lighted.

(b) At least twenty (20) foot-candles of light shall be required on all working surfaces and at least ten (10) foot-candles on all other surfaces and equipment, in food preparation, utensil-washing and hand-washing areas, and toilet rooms. Sources of artificial light shall be provided and used to the extent necessary to provide the required amount of light on these surfaces when in use and when being cleaned. At least five (5) foot-candles of light at a distance of thirty (30) inches from the floor shall be required in all other areas, including during cleaning operations.

Section 5-315. Ventilation.

All rooms in which food is prepared or served or utensils washed, dressing or locker rooms, toilet rooms, and garbage and rubbish storage areas shall be well ventilated. ventilation hoods and devices shall be designed to prevent grease or condensation from dripping into food or onto food-preparation surfaces. Filters, when used, shall be readily removable for cleaning or replacement. ventilation systems shall comply with State and local fire prevention requirements and shall, when vented to the outside air, discharge in such manner as not to create a nuisance.

Section 5-316. Insect control; screening.

(a) In establishments preparing and/or serving food, or in mobile eating places, all openings to the outer air shall be effectively protected against the entrance of flies and other flying insects by self-closing doors, closed windows, screening, controlled air currents, or other effective means.

(b) Screening material shall be not less than 16-mesh to the inch or equivalent.

(c) Screen doors to the outer air shall be self-closing; and screens for windows, doors, skylights, transoms, and other openings to the outer air shall be tight-fitting and free of breaks.

Section 5-317. Cleaning of utensils; food-contact surfaces; sinks.

(a) All cups, dishes, spoons, knives, forks and other eating and kitchen utensils in eating places shall after using be thoroughly washed with a suitable detergent and water having a temperature of at least 130° F., rinsed in clean hot water and then immersed for at least one-half (1/2) minute in clean hot water of at least 180° F., or immersed for a period of at least two (2) minutes in a chloride solution containing when freshly prepared, two hundred (200) parts per million available chlorine. The solution may not be used after its strength has been reduced below fifty (50) parts per million of available chlorine. Other adequate sterilizing solutions may be used provided that they have been approved by the Health Officer. When dishwashing machines are used they shall be of such materials and so designed and constructed as to be easily cleanable and shall be capable, when operated properly, of rendering all surfaces of equipment and utensils clean to sight and touch, and sanitized. All articles shall be placed in an inverted

position on a clean drainboard or rack and allowed to dry. Dishwashing machines shall have a rinse-water temperature of at least 180°F.

(b) All kitchenware and food-contact surfaces of equipment, used in the preparation or service of food or drink, and all food-storage utensils, shall be thoroughly cleaned after each use. Cooking surfaces of equipment shall be cleaned at least once a day. All utensils and food-contact surfaces of equipment used in the preparation, service, display, or storage of potentially hazardous food shall be thoroughly cleaned and sanitized prior to such use. Non-food-contact surfaces of equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition.

(c) Food-contact surfaces of equipment and utensils shall be smooth, free of breaks, open seams, cracks, chips, pits, and similar imperfections, be in good repair, and shall be easily cleanable.

(d) A three (3) compartment sink shall be provided and used wherever dish-washing and sanitization of equipment or utensils are conducted manually; provided that establishments where the only utensils to be washed are limited to spatulas, tongs, and similar devices, and when the only equipment to be cleaned is stationary and does not require disassembly for proper cleaning, a one (1) compartment sink may be used for this purpose. At least a two (2) compartment sink shall be provided and used for washing kitchenware and equipment which does not require sanitization. Single compartment utility sinks, such as cooks' and bakers' sinks, may be used for the rinsing of utensils.

(e) Sinks used for washing and sanitizing operations shall be of adequate length, width, and depth to permit the complete immersion of the equipment and utensils, and each compartment of such sinks shall be supplied with hot and cold running water. Dish baskets shall be of such design as to permit complete immersion of the utensils and equipment components being sanitized therein.

(f) When hot water is used as the sanitizing agent in manual operations, thermometers, accurate to plus or minus 2° F., shall be provided convenient to the sink to permit frequent checks of the water temperature.

(g) After cleaning and until used, all food-contact surfaces of equipment and utensils shall be so stored and handled as to be protected from contamination.

(h) All single-service articles shall be stored, handled, and dispensed in a sanitary manner, and shall be used only once.

(i) In all new establishments and establishments which are extensively altered, lavatories shall also be located within the area where food is prepared.

#### Section 5-318. Hot and cold running water required.

Hot and cold running water, under pressure, shall be provided in all areas where food is prepared, or equipment, utensils or containers are washed.



Section 5-319. Lavatories.

(a) All eating places shall be equipped with adequate toilets and lavatories for the employees and shall be conveniently located and accessible at all times.

(b) All lavatories shall be equipped with hot and cold or tempered running water, hand cleaning soap or detergent, and approved sanitary towels or other approved hand-drying services. Such facilities shall be kept clean and in good repair.

(c) Toilet rooms shall be kept in a clean condition, in good repair, well-lighted and ventilated to the outdoors. Doors of all such toilet rooms shall be tight-fitting and self-closing. Signs requiring employees to wash their hands after using the toilet shall be posted in all toilet rooms. When toilet facilities are provided for patrons, such facilities shall be maintained in a sanitary condition at all times.

Section 5-320. Common towels or drinking containers prohibited.

Use of common towels and drinking containers is prohibited. No operator of any eating place, and any catering establishment, or establishments preparing food for vending machines dispensing foods other than in original sealed packages shall provide for use, or allow to be used any common drinking container or any common towel by his employees or the public.

Section 5-321. Sewage or refuse disposal not to create nuisance.

The method of final sewage or refuse disposal utilized in connection with the operation of any eating place, and any catering establishment, or establishments preparing food for vending machines dispensing foods other than in original sealed packages, shall be such as not to create a nuisance.

Section 5-322. Compliance with State plumbing and sewage laws.

Proprietors of eating places and any catering establishments, or establishments preparing food for vending machines dispensing foods other than in original sealed packages shall comply with the State laws and regulations regarding the installation of plumbing and disposal of sewage.

Section 5-323. Special requirements for mobile food service units.

(a) Mobile food service units shall be licensed in accordance with the provisions of this Article. Each unit shall be licensed to sell and dispense only such items as are listed in the application and for which the unit is properly equipped to dispense. In no event shall a license granted to any mobile food service unit be valid to permit operation or sales within a Two hundred (200) foot distance from any licensed food service establishment within the City without express written permission of that establishment. This limitation shall not apply to those mobile food service units located in the historic district as defined in the Land Use Code. The location of those units shall be in accordance with the requirements of Section 5-94, with the location



approved by the Sidewalk Vendors' Licensing Committee. For purposes of applying the footage distance from any licensed food service establishment, the distance shall be measured from the property line of the licensed food service establishment.

(b) Special structures or units in a temporary or permanent manner shall not be built in the vicinity of a mobile food service unit.

(c) There shall be available to each mobile food service unit either at the service site or at its parking site, adequate facilities consisting of a sink with running hot and cold water for the washing of equipment and utensils used in connection with the service of food by the mobile food service unit.

(d) All mobile food service units in which food is prepared shall be equipped with a water tank having a holding capacity of not less than ten gallons and provided with a spigot containing water. Such tank shall be easily removable for cleaning and sanitation after each day's use. Water supply shall be used for hand washing and minor cleaning purposes only. This subsection shall not apply to those mobile food service units preparing only hot dogs.

(e) Any liquid waste from a mobile food service unit shall not be allowed to run on the ground. Mobile food service units must have a holding tank for the accumulation of liquid waste with a capacity of not less than the total capacity of the potable water tank.

(f) Those mobile food service units which are vehicular in nature and which are capable of being driven shall have the driver's compartment separated from the food preparation, service or storage areas by complete partition or adequate screening. No food or food containers or utensils shall be kept in the driver's compartment.

(g) Mobile food service units handling only pre-wrapped or pre-packaged foods, which do not require further preparation by the mobile food service unit operator, need not comply with the foregoing provisions requiring a water supply and a separate driver's compartment.

(h) Only single service containers and eating and drinking utensils shall be provided to the customers of a mobile food service unit. Such containers and utensils shall be dispensed directly by the proprietor or employee.

(i) There shall be adequate refrigeration and storage space provided in each mobile food service unit that prepares or serves potentially hazardous foods.

(j) All containers in which food is placed or stored shall be covered except as necessary for service to customers.

(k) All mobile food service units shall provide a trash container for paper and other refuse. This container shall be covered.

(l) The operator of a mobile food service unit is required to handle all food material which is not prepackaged for service with tongs or other utensils so as to avoid contact with said food. The operator shall be required to have clean garments and to have present on the unit a

handwipe or other similar item for handwashing and cleansing.

(m) Mobile food service unit operators must further comply with the other sections of this article insofar as they are applicable to this type of preparation and service of food.

(Ord. 4/5/81; Ord. #87-18 9/16/87)

Section 5-324. Additional special sanitary requirements for catering establishments.

(a) Containers. All containers used to store, keep or hold food and/or drink for transportation from any caterer's premises to any site designated by the customer for consumption, shall be of the following approved type:

(1) Bulk containers and single service containers shall be leak-proof, and each provided with an adequate type of cover which will prevent the contents from spilling over and from being contaminated while in transit.

(2) Any reusable container used in the transportation of food shall be easily cleanable and capable of being sanitized.

(3) Containers shall not be composed in whole or in part of any poisonous or deleterious substance which may result in the contamination of the contents injurious to health.

(b) Vehicles. All vehicles used by the caterer for the transportation of food or food products shall be constructed, operated and maintained so as to protect their contents from contamination.

Section 5-325. Outside food service.

(a) All food in the service area will be protected to the extent that all containers of food will be covered.

(b) There will be no presetting of tableware or placemats. This is to be done only when the table is occupied and only after the table has been wiped off.

(c) No table with storage or waitress station will be allowed out of doors.

(d) After the meal is completed and customers have vacated, the table or eating area shall be immediately cleaned of soiled tableware and wiped off.

(e) All garbage containers in the outside storage area are to be constantly covered.

(f) No animals shall be allowed in the food service area except as provided in Section 307 of this Article.

Section 5-326. Types of victualers licenses; fees.

The various classifications of victualers licenses and fees corresponding to those classifications shall be set by the City Council of the City of Bath by resolutions. The City Council shall have the further power to adjust the fees and classifications, by resolutions, as from time to time may be necessary or appropriate.

(Ord. of 4-5-81)

Restaurant	\$35.00
Caterer	\$25.00
Mobile Food Service Unit (per unit)	\$25.00
Special Food Handler (preparation of food to be taken off premises)	\$35.00
Non-profit Organization	No Charge

RESOLUTION  
RULES AND REGULATIONS  
GOVERNING USAGE OF PARK AREAS

The following rules and regulations are promulgated by the City Council of the City of Bath to govern the use of City Parks for special purposes by organizations or individuals:

1. Application Application will be made to the Supervisor of Cemeteries and Parks for the use of any City Park area. Such application shall be in a format acceptable to the superintendent and shall contain at least the following information:

- (a) Name of the group, organization or individual applying for use of the park;
- (b) Name, address and telephone number of a person duly authorized by the organization or group to apply for use;
- (c) Type of use applied for;
- (d) Duration of use;
- (e) Whether there is any necessity for electrical service and/or water hook-up for the proposed use;
- (f) Such other and further information as superintendent deems necessary and appropriate.

2. Charges Charges for the use of the park facility will be in accordance with the following:

- (a) Non-profit Bath organizations or Bath individuals utilizing the park for a non-profit purpose at No Charge.
- (b) Profit making organizations or groups of out of town non-profit corporations or individuals as follows:  
\$10.00 per hour with a minimum charge of \$20.00 up to a maximum of \$50.00 per day.
- (c) Any park usage which directly or indirectly results in a need for additional City services or personnel may require payment of an amount equal to the cost of such additional service or personnel. This may include, but is not limited to, traffic control, maintenance of order, placing or removal of barriers, etc. This amount shall be determined by the Department Head of the Department or Departments involved in providing these services and/or personnel and shall be reviewed by the Superintendent of Cemeteries and Parks and the City Manager. This charge is to be levied over and above any other fee or charge for park usage.

Such fees shall be payable in advance of use.

3. Administration The park usage shall be administered by the Superintendent of Parks and Cemeteries and he shall have full authority to grant or deny a particular organization, group or individual usage of City Parks. Any determination of usage made by the Superintendent shall be appealable to the City Council. The Superintendent shall have authority to grant usage for up to a maximum of Three (3) days. Any usage of the City Parks in excess of Three (3) days shall

require prior approval of the Bath City Council.

4. Damage/Damage Deposit Each organization, group or individual shall assume full and complete responsibility for the condition of park upon the termination of their use and shall bear complete and full responsibility for the repairing of any damage to the park facility or any furnishings, equipment or appurtenances located therein. In instances where he deems it appropriate, the Superintendent shall have authority to require a damage deposit, said deposit to be in addition to any charges for actual use of the park. The cost to the City of Bath of repairing any damage may be deducted from any such damage deposit, and the user shall be responsible to the City for any cost of repair exceeding the amount of deposit.

5. Clean-up Each user, organization, group or individual shall be responsible for leaving the park in the same condition in which it found the park at the time of commencement of use. This specifically means that the user will be responsible for all clean-up activities. If the user does not sufficiently clean-up the facility after any function and any user who refuses or neglects to initiate and/or complete the clean-up, after being so notified by the superintendent, will be responsible to the City of Bath for a fee of \$15.00 per man hour for all clean-up activities conducted by the Cemeteries and parks Department.

6. Electrical Service/Water Arrangements for electrical service and/or water, require the advance approval by the superintendent. The cost of any such service shall be borne exclusively by the user and the user shall hold the City harmless from any cost or liability arising therefrom.

7. Liability The City shall not in any event be liable for any injury or damage to any property or person happening on or about the City Park premises, nor for any injury or damage to the premises nor to any property of the user or any other person located therein. The user shall indemnify and save the City harmless from and against any and all liabilities, losses, damages, suits, penalties, claims and demands of every kind or nature, including reasonable counsel fees by or on behalf of any person, party or governmental authority whosoever, arising out of any accident, injury or damage what shall happen in, upon or about the park area or a common area, during the period of use.

8. Insurance The user in instances where the Superintendent deems it appropriate due to the nature of the use or intensity of the use, may be required to provide proof of liability insurance satisfactory to the Superintendent and the City Manager.

State Law reference - Pool halls and bowling alleys, 8MRSA (1964) §1 et.seq.

#### ARTICLE 14. SIDEWALK VENDING (Ord. 3/2007)

Section 5-401. Purpose. The purpose of this Article is to regulate the use of the City's sidewalks and other public ways within the C-I, Downtown Business, Zoning District, for the purpose of barter, trade, exhibition, display or sale of goods, merchandise or food, in a manner that creates a diversity of products available in the downtown, in order to bring additional customers and patrons to the downtown area, to create a more festive downtown street

atmosphere which will enrich the downtown's ambience and to do so in a manner that will not create any hazard to pedestrians or vehicles in the downtown area, and will be fair and equitable to permanent vendors and merchants located and doing business in the downtown area.

Section 5-402. License Required. No person or business entity may sell, demonstrate, distribute samples of, or solicit or take orders for goods; sell or offer to sell, display for sale, demonstrate or distribute samples of or soliciting or taking orders for any food, beverages, or services, in any street or public place, nor shall any artist who manually paints, sketches or draws on plain surfaces whose work is for sale to the public, conduct such activities without first having procured a license under the terms and conditions of this Article, from the City Codes Enforcement Office.

Section 5-403 Designated License Area. The area to which the provisions of this Article 14 apply, shall be limited to the public sidewalks, streets, alleys or any other City owned property within the C-I, Downtown Business, Zoning District.

Section 5-404. Location of Designated Areas.

A. Permanent Locations.

The following shall be designated as permanent sidewalk vendor sites:

Elm Street Plaza  
Waterfront Park Area (2 sites)  
Customs House

B. Additional Locations.

The Sidewalk Vending Committee shall meet and determine whether an additional requested location may be designated if found to be in accordance with the provisions of this Ordinance.

Section 5-405. Location Restrictions. Each permanent location, each additional designated location and locations approved for operators will only allow use of a maximum of forty percent (40%) of the width of the sidewalk and must leave an unoccupied width of at least four feet (4') for the full frontage of the designated area where the street vendor unit or display is located. Vendors who are not operators, may be licensed for additional designated locations that are no closer than two hundred feet (200') from a retail establishment selling similar goods, and if selling food, shall be at least two hundred feet (200') from any restaurant or other food service establishment. All food street vendor locations shall be at least two hundred feet (200') from any other food service vendor location selling the same or similar goods or food items. These footage separation requirements may be waived by the Sidewalk Vending Committee if it can be demonstrated by the applicant that the proposed vending does not present unreasonable competition with businesses within the separation area.

Section 5-406. Classification of Locations.

A. Operators.

1. Restaurants. The operators of restaurants may receive permits to serve customers at tables on the sidewalk area in front of their restaurants. No location approval shall be required but a license from the Codes Enforcement Officer will be required prior to occupying the location.

2. Retail Establishments. Persons or business enterprises who are operators of retail establishments, may receive permits to place any goods or merchandise on a location in front of their establishment. No location approval shall be required but a license from the Codes Enforcement Officer will be required prior to occupying the location.

B. Street Vendors.

1. Street vendors who are not owners or tenants, may occupy any other designated location approved by the Sidewalk Vending Committee that is not allocated to owners or tenants.

Section 5-407. Sidewalk Vending Committee. A Sidewalk Vending Committee consisting of one (1) member of the Bath City Council, one (1) downtown food service operator, one (1) downtown retail merchant, and one (1) at large member appointed by the City Council, Main Street Bath President or designee, the Codes Enforcement Officer, and the City Planner, shall be established. The Bath City Council member shall be appointed for a one (1) year term, and the downtown food service operator, downtown retail merchant, at large member, and Main Street Bath President or designee shall be appointed by the City Council, for three (3) year terms. This Committee shall designate appropriate additional locations for sidewalk vending and shall review and determine the qualifications of applicants for designated locations and refer same to the Codes Enforcement Office for the issuance of licenses.

Section 5-408. License Period and Time of Operation. Licenses issued to vendors or to owners or tenants, shall be for the period beginning on May 1<sup>st</sup> of each year and extending through April 30<sup>th</sup> of the following year. The time of operation shall be no earlier than 9:00 a.m. and all operations shall cease by 9:30 p.m. and all vendor units must be removed from the sidewalks by 10:00 p.m.

Section 5-409. Transferability; License Limitations. Any license issued to a street vendor or to a person or business entity conducting street vending in a designated location, shall be specific to that business enterprise and location and shall not be transferable to any other person or business entity. The license shall be for the specific food items or goods and merchandise specified in the license and for no other purpose.

Section 5-410. Applications.

A. Submission – Date. Applications shall be submitted to the Bath Codes Enforcement Office on forms supplied by that office no earlier than April 1<sup>st</sup> of each year.

B. Contents. The application shall contain at least the following information:

The name, address, and telephone number of the applicant.

The proposed street or City location.

The type of food or goods and/or merchandise proposed to be bartered, traded, exhibited, displayed or sold.

Proposed days and times of operation.

A photograph or sketch or written description of the cart, vehicle, stand, booth or other equipment used for the vending enterprise.

Proof of liability insurance as required under Section 5-413 below.

A color photograph or color drawing of the unit or display.

A detail of signage accompanying the unit or display.

A list of all other licenses or permits that may be required in order to establish the sidewalk vending use.

Such other information as may be necessary to demonstrate that the approval criteria will be met.

C. Approval Criteria.

The location of the vending will not hamper sight distance for either vehicular or pedestrian traffic.

The cart, vehicle, stand, booth, or the like from which the goods or merchandise will be bartered, traded, exhibited, displayed, or sold is attractive, well maintained, and compatible in a design sense with the location in which it is proposed.

The applicant, if a repeat applicant, has demonstrated the ability and willingness to operate the sidewalk vending business well and in conformance with the requirements and purpose of this Section.

The location does not block a walkway, entryway, access drive, or driveway to any business.

The location does not hamper access for emergency vehicles or personnel.

The location and physical characteristics of the site will not create a hazard to public health, safety, or the general welfare.

The vendor has received all other required State or local permits for conduct of the vending operation. If all other required permits have not been received, then any approval issued for a sidewalk vendor's license, shall be contingent upon receipt of all other required licenses and permits.

The Committee may attach such reasonable conditions to their approval as may be necessary to carry out the purposes of this Article, to protect the public, or to assure compliance with the licensing terms and requirements.

Section 5-411. Longevity. Where an applicant is applying for the same designated location as has been licensed to that applicant in the previous year, the Committee may give priority to that repeat applicant for that location if the applicant has demonstrated the ability and willingness to operate the sidewalk vending business well and in conformance with the requirements and purpose of this Section and purposes of this Article.



Section 5-412. Inspection and Approval. Prior to any sidewalk vending unit being placed into operation, it shall be inspected by the City Codes Enforcement Officer for compliance with the requirements of this Article, to determine that the unit has been accurately described in the application and that the goods, merchandise or food being sold from the unit correspond to the items listed in the application.

Section 5-413. Liability Insurance. No street vendor's license shall be issued without an applicant first filing with the Codes Enforcement Office a certificate, in a form satisfactory to the City Solicitor, evidencing public liability insurance coverage in an amount not less than the maximum liability under applicable law and which names the City as additional insured. The certificate shall also provide for notice to the Codes Enforcement Officer, not less than thirty (30) days prior to any cancellation of insurance. The insurance will be maintained by the licensee at all times while engaged in street vending. The insurance shall be placed with a carrier that has been approved to do business in the State of Maine.

Section 5-414. Design Standards. All sidewalk vending units shall be subject to the following design standards:

- A. No more than four feet (4') in width, six feet (6') in length, and six feet (6') in height.
- B. Able to transport and display all of the vendor's goods or food.
- C. Any advertising on the unit shall be limited to the vendor's business or products.
- D. The unit shall be readily moveable.
- E. The unit may not be powered nor shall it use a generator of any type.

Section 5-415. Abandonment. The vendor shall continue to use the site at least three (3) days per week, during the months of June, July and August, unless prohibited by weather conditions, or the site shall be considered to be abandoned and will be eligible for allocation to another vendor.

Section 5-416. Conduct - Prohibitions.

- A. The location and operation shall not restrict ingress or egress of pedestrian traffic to abutting commercial locations.
- B. The location and operation shall present no hazard to pedestrian or vehicular traffic.
- C. The operation and location shall not restrict access by emergency vehicles.
- D. Loading, unloading, set up and removal of the unit shall be accomplished in no more than thirty (30) minutes.

E. The unit shall not be left unattended.

F. The vendor shall keep the site clean of litter within a radius of thirty feet (30') of the location, and if serving food, shall provide a receptacle immediately adjacent to the unit for associated trash. The trash and trash receptacle shall be removed each evening at the same time the unit is removed from the location.

G. The vendor shall not sell any food; goods or merchandise not specified in their license.

H. The vendor shall not operate in a manner that would constitute an unfair or deceptive trade practice under state law.

I. The vendor shall not make or cause noise in violation of city noise restrictions.

J. The vendor shall not alter, change or add to the unit as approved except with the permission of the committee.

Section 5-417. Waivers. The provisions of this Article may be waived or modified by the Bath City Council for special events and holiday celebrations.

Section 5-418. Fees. Processing fees and license fees shall be set by resolution of the Bath City Council and shall be submitted with the Application.

***(3-7-07) NOW, THEREFORE, BE IT RESOLVED*** by the City Council of the City of Bath that a processing fee of Fifty Dollars (\$50.00) shall accompany the submission of any application for a sidewalk vending license. Upon granting of the license, then a license or spot fee shall be assessed which shall be as follows:

\$200.00	Elm Street Location
\$200.00	Customs House Location
\$200.00	Waterfront Locations
\$200.00	All Other Locations

Section 5-419. Enforcement. This Article is enforced by the City Codes Enforcement Officer.

Section 5-420. Violations – Remedies. Upon violation of any of the terms or conditions in this Article or any of the licensure requirements, the Codes Enforcement Officer shall have all of the remedies available as in any codes enforcement action, including, but not limited to, the assessment of penalties, not to exceed two hundred fifty dollars (\$250.00) for the first violation, and not to exceed five hundred dollars (\$500.00) for any second or subsequent violation, and the ability to suspend a license, and the ability to cause removal of the vending unit. A license may be revoked by a majority vote of the Sidewalk Vending Committee, after hearing at which the licensee shall have an opportunity to demonstrate why the revocation should not occur. The revocation shall be based upon violation of any of the terms, conditions, criteria or prohibitions at set forth in the Ordinance. Any suspension imposed by the Codes Enforcement Officer shall remain in effect until a determination by the Sidewalk Vending Committee.

Section 5-421. Appeal. Any vendor may appeal any decision of the Sidewalk Vending Committee or the Codes Enforcement Officer rendered under this Article to the City of Bath Zoning Board of Appeals, by filing a notice with the Codes Enforcement Office, stating the decision being appealed from and the grounds for the appeal. Such an appeal must be filed within fourteen (14) days of the decision.

## **CEMETERIES AND PARKS**

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## CHAPTER 6. CEMETERIES AND PARKS

### ARTICLE 1. GENERAL PROVISIONS

#### Section 6-1. Duties of Superintendent.

The Superintendent of Burials and Burial Grounds shall be entrusted with and be responsible for all City property used in cemetery operations and for the maintenance of such cemeteries; shall be subject to the direction of the City Manager, and shall administer the provisions of this Chapter. (Ord. 8/15/49 10; amended 2/16/77.)

#### Section 6-2. Adoption of rules by Superintendent.

A. The Superintendent of Burials and Burial Grounds may adopt such rules, regulations and charges as in his judgment may be necessary for the government of the cemeteries owned by this City, provided that:

1. Such rules, regulations and charges are not inconsistent with the laws of the State or the Ordinances of the City; and
2. They are approved in advance by the City Council; and
3. They are in writing and filed in the office of the City Clerk, where they shall be available for public inspection at any reasonable time. (Ord.8/15/49, 11, Ord.4/26/89) Res. 6/7/06)

B. Cremation Lot Sections. Monuments on cremation lots must be flush with the ground. They cannot exceed thirty-six (36) inches in length and fifteen (15) inches in width. No shrubs, perennial plants, fences or other boundary markers may be planted or erected on \*cremation lots.

*\*Cremation lots are designated to specific areas and are three (3) feet wide by five (5) feet wide.*

**Note: All cremation lots purchased prior to July 1, 2006 are not subject to these rules. (6/7/06)**

#### Section 6-3. Superintendent as special policeman.

A. The Superintendent of Burials and Burial Grounds may be sworn as a special policeman with full power to arrest all intruders or depredators.

B. Any person willfully violating any of the provisions of this Chapter or any cemetery rules and regulations lawfully promulgated there under may be ordered to leave or be ejected from the grounds by the Superintendent. Any such person refusing to leave when so ordered to leave shall be guilty of a crime punishable by a fine not to exceed One Hundred Dollars (\$100.00) and/or imprisonment not to exceed Thirty (30) days. Fines are payable to the City of Bath. (Ord. 8/15/49, 16 amended 10/23/76.)

#### Section 6-4. Decorations restricted; improper monuments.

A. In City cemeteries, no curb, decoration, design, embellishment or improvement of any sort (cut flowers, wreaths, and potted plants excepted) shall be placed on any burial lot or shall any alterations of the surface of the grounds be made, or any labor be done unless the same shall have been approved by the Superintendent. If any person feels aggrieved by the decision of the Superintendent, he may appeal to the City Manager. Under no conditions will glass containers or artificial flowers with stems containing wire be permitted in any of the City Cemeteries.

B. If any monument or structure, or any inscription thereon that may be placed in or upon any burial lot in City cemeteries, is determined by the Superintendent to be improper, and such decision is concurred in by the City Manager, the owner shall be notified by mail if possible, or by public notice that the offensive or improper object must be removed by the owner forthwith. If the owner fails to do so within the time limit specified in a written notice by the Superintendent, the City shall have the right to enter upon the premises and remove the offensive or improper object.

C. Monument and marker size, construction (design and material) and placement on a lot are subject to the approval of the Superintendent of Cemeteries. Permission must be secured before placement on a lot.

1) Basic size requirements are as follows;

(a) Single grave lot markers or monuments are not to exceed twenty-four (24) inches in length, fifteen (15) inches in width, and twenty-five (25) inches in height.

(b) Two and three grave lot monuments and markers are not to exceed forty-two (42) inches in length, fifteen (15) inches in width and thirty-two (32) inches in height.

(c) Four or more grave lot monuments or markers are not to exceed sixty (60) inches in length, fifteen (15) inches in width and sixty (60) inches in height.

2) All monuments or markers shall be constructed of a durable substance such as marble, granite or bronze. Exceptions must be approved by the Superintendent prior to placement upon a lot. (Ord. No. 85-7, 5-1-85; Ord. No. 86-4, 3-5-86)

#### Section 6-5. Removal of trees and shrubs as nuisances.

If any trees or shrubs in or upon any lot in any City cemetery which, in the judgment of the Superintendent, by means of their roots, branches or otherwise, become detrimental to the adjacent grounds or unsightly or inconvenient to the public, the city shall have the right to enter upon the premises and remove such trees or shrubs or any part thereof. (Ord. 8/15/49, 13)



Section 6-6. Conduct prohibited on cemetery grounds.

A. No person shall, in any City cemetery:

Carry any alcoholic liquor or narcotics (controlled substances) into such cemetery or consume or use any such liquor or narcotics therein.

Carry any firearms therein, except in connection with funerals or Memorial Day or similar exercises;

3. Explode any fireworks;
4. Trespass upon any cemetery lot;
5. Make use of any loud, threatening, abusive or indecent language;
6. Throw stones or other missiles therein;
7. Exhibit any show or play any game of chance therein;
8. Post any bill, notice or other device on any tree or structure; or
9. Do any obscene or indecent act whatever upon or within such cemetery.

B. All dogs within any cemetery shall at all times be controlled by the means of a leash. Any feces deposited by any dog in any City Cemetery shall be immediately removed by the owner and disposed of in a safe and healthful manner.

C. Any person violating any of the provisions of this Section for which a specific penalty is not otherwise provided by State Law, shall be guilty of a crime punishable by a fine not to exceed One Hundred Dollars (\$100.00) and/or imprisonment not to exceed Thirty (30) days. Fines are payable to the City of Bath.

D. For the purpose of this section the word "Cemetery" shall mean those areas as defined in Section 6-20 of this Chapter. (Ord. 8/15/49, 14 amended 10/13/76)

Section 6-7. Injuring monuments.

A. No person shall willfully destroy any tomb, grave stone, monument, or other object placed or designed as a memorial to the dead, or any fence, railing or other thing placed about or enclosing a burial place or willfully injure, remove or destroy any tree, shrub or plant within such enclosure.

B. Any person violating this Section shall be guilty of a crime, punishable by a fine not to exceed One Hundred Dollars (\$100.00) and/or imprisonment not to exceed thirty (30) days. Fines are payable to the City of Bath. (Ord. 8/15/49, 15 amended 10/13/76).

#### Section 6-8. Cemetery Hours.

City cemeteries shall be closed to the public between the hours of 9:00 p.m. to 5:00 a.m. each day and when posted closed during the winter season No person shall enter said cemeteries during closed hours except by permission of the Superintendent or the City Manager. (Ord. 8/15/49, 17 amended 2/2/55, 10/13/76)

#### Section 6-9. Bicycle, motorcycle, recreational vehicle and horseback riding prohibited.

No person shall ride a bicycle, motorcycle, recreational vehicle or ride horseback in any City cemetery, unless permission shall have been given by the Superintendent of Burials and Burial Grounds, the City Manager or the Council. (Ord. 8/15/49, 18.)

#### Section 6-10. Use of City funds for cemeteries restricted.

The Council shall not appropriate any funds for, nor shall any City funds be expended in any cemetery not owned by the City, except as required in 13 M.R.S.A. §1101, which imposes municipal responsibility for ancient or public veterans burying grounds. (Ord. 8/15/49, 20. - Ord. 3-7-90)

#### Section 6-11. Private cemeteries within the City.

Any person owning any cemetery within the City shall furnish to the superintendent of Burials and Burial Grounds a map showing the location and number of each lot therein and the name of every person buried therein so far as known to the owner. Such owner shall, in writing within Thirty (30) days, notify the Superintendent of any burials or other changes to said owned cemeteries so as to allow the Superintendent to keep his records current. (Ord. 8/15/49, 21.)

#### Section 6-12. Applicability to any cemeteries acquired by City.

The provisions of this Chapter shall also apply to any cemeteries, the ownership and control of which may be acquired by the City. (Ord. 8/15/49, 19.)

### **ARTICLE 2. BURIALS**

#### Section 6-13. Burial Permits and Authorization.

A. No interment or disinterment of any dead human body shall be made without a permit from the City Clerk where such person died, or is buried.\* (Ord. 8/15/49, 24)

B. No person, except the Superintendent of Burials and Burial Grounds, or his assistant acting in his behalf, shall in City Cemeteries bury or cause to be buried, or moved, the body of any deceased person.

\*State law reference: As to obtaining a burial permit, see 22 M.R.S.A. §2843

#### Section 6-14. Records of Burials.

The Superintendent shall record and maintain a record of each interment made within the City limits, together with the name, age, sex, date and place of death, date and place of burial, and the number of the lot or tomb where buried. Such record shall be kept safely and with the utmost care in the office of the Superintendent. The Superintendent shall keep all records in a fireproof vault at all times when not in use. (Ord. 8/15/49, 26.)

#### Section 6-15. Utilization of burial record permits.

The Superintendent of Burials and Burial Grounds shall compare burial permit records with all cemetery maps in his office, keep such maps currently correct, and report any possible violations of law to the City Solicitor. (Ord. 8/15/49, 25.)

#### Section 6-16. Burial Hours.

A. Burial Hours will be from 8:00 a.m. to 3:00 p.m. (Ord. 6-22-94)

#### Section 6-17. Burial and monument foundation fees.

A. The expense for burial services is determined to be a fixed charge as follows:

1. Opening of grave, removal of excess material, refilling and sodding:

- (a) Grave openings for adults (not including outer-burial containers [vaults or liners]), authorized by the Superintendent after the cemeteries are closed to vehicular traffic in the winter months will be six hundred fifty-four dollars (\$654.00); Saturday, Sunday or legally authorized days of cemetery closure, will be eight hundred fifty dollars (\$850.00). (Res. 8/06/03)(Res. 9/3/03)(Res. 6/7/06)(Res. 8/6/08)(Res. 6/6/12)
- (b) Graves for cremation receptacles (not including outer-burial containers [vaults]) one-half the size of a single adult grave opening or less two hundred fifty dollars (\$250.00). Saturday, Sunday or legally authorized days of cemetery closure, shall be charged at the rate of three hundred twenty-five dollars (\$325). (Res. 4/04/01)(Res. 9/3/03)(Res. 6/6/12)
- (c) Graves for children, (not including outer burial containers (vaults or liners) one-half of the size of a single grave opening or less, two hundred dollars (\$200.00); Saturday, Sunday or legally authorized days of cemetery closure, burial of children shall be at the rate of three hundred fifty dollars (\$350.00). (Res. 4/04/01)(Res. 6/6/12)
- (d) In the case of adult graves for any person who, at the time of his or her death, was a bona-fide recipient of City general assistance, there shall be no charge. (Ord. 4/18/01)
- (e) Winter burials between November 1 and April 1, additional twenty-five dollars (\$25.00); Cremations additional twenty-five dollars (\$25.00). (This additional cost to be assessed if weather conditions require additional work, as determined by the Superintendent.) (Res. 4/04/01)(Res. 6/6/12)

- (f) An extra fee of one hundred dollars (\$100.00) will be charged for any labor required in completion of a burial beyond 3:30 p.m., regardless of time of commencement of burial. (Res. 4/04/01)(Res. 8/6/08)(Res. 6/6/12)
- (g) An entombment charge of one hundred dollars (\$100.00) will be charged for any entombment not buried in Bath. There will be no charge for entombments buried in Bath in a City facility. (Ord. 4-26-89) (Res. 4/04/01)(Res.8/6/08)(Res. 6/6/12)

Other charges: (Res. 8/6/08)(Res. 6/6/12)

Liner Boxes - three hundred sixty dollars \$360.00

Cremation O.B.C. – one hundred fifteen dollars \$115.00

Minimum Man-Hour Rate – seventeen dollars and fifty cents \$17.50

Minimum Charge for any Work Done – fifty dollars \$50.00

Truck Usage Charge (one hour minimum) – twenty-eight dollars \$28.00/hr.

Shrub Removal – 2 shrubs with roots reseed – two hundred twenty-five dollars \$225.00 (2):

Flush Cut – seventy-five dollars \$75.00

2. Foundation charges for monument stones; seventy-five cents (\$.75) per square surface inch for full foundations, which includes all materials and labor. Minimum charge of Seventy-Five Dollars (\$75.00) for any single foundation. Foundation removal thirty cents (\$.30) per square inch. Minimum charge of Sixty-Three Dollars (\$63.00) for any single foundation. Crushed stone foundation greater than 12”x24” charged at thirty cents (\$.30) per square inch. Setting of flat markers in crushed stone forty-two (\$42.00). The charge for foundation repairs such as caps; twenty-five cents (\$.25) per square inch with a minimum of Thirty-One Dollars (\$31.00). There will be no charge for setting markers provided by the U. S. Government. The method by which these markers are set will be at the Superintendent's discretion. (Ord. 4-26-89 & 1994) (Res. 4/04/01)(Res. 6/7/06)(Res. 8/6/08)(Res. 6/6/12)

A. Removals: Opening grave to permit removal, which does not include the cost of reburial, if desired, shall be charged at the rate of seven hundred seventy-five dollars (\$775.00); Saturday, Sunday or legally authorized days of cemetery closure shall be at the rate of eight hundred seventy-five dollars (\$875.00). (Res. 4/04/01)(Res.6/7/06)(Res.8/6/08)(Res.6/6/12)

B. Burial fees are payable by check to the City of Bath at the time of burial. A receipt shall be issued for any such payment.

C. Any of the fixed charges for burial services, or other charges delineated in this Section may, from time to time, be revised or adjusted and established by Resolution of the City Council of the City of Bath.

Section 6-18. Burial receptacles and cremains scattering.

A. All burials shall be made in outer burial containers (vaults or liners). These containers are subject to the approval of the Superintendent of Cemeteries and Parks.

1. Adult burials shall be made in outer burial containers (vault or liners) constructed of steel, concrete or stone.

2. Small children and baby burials shall be made in puncture proof rigid outer burial containers made of concrete, stone, steel or fiberglass that is designed to resist deterioration. The container shall be constructed so as to facilitate underground detection by probing (sounding).

3. Ground burials of cremains shall be in puncture proof rigid outer burial containers (cremation vaults) made of concrete, stone, steel, bronze or fiberglass that is designed to resist deterioration. The container shall be constructed with at least one flat surface so as to facilitate underground detection by probing (sounding). (Ord. 4-26-89)

B. The scattering of cremains over a cemetery lot is permitted, but is subject to the following procedures and restrictions:

1. A proper cremation certificate must be presented to the Superintendent.

2. Cremains must be scattered on a lot in the City cemeteries. The location of the lot must be approved by the Superintendent of Cemeteries and Parks.

3. The Superintendent of Cemeteries and Parks must be notified 3 days prior to scattering of cremains and must supervise the said scattering.

4. The scattering of cremains must be in accordance with State law.

5. Cremains must be pulverized.

6. Cremains must be released as close to the ground as possible to prevent drift.

7. Cremains will not be allowed to be scattered on lots which are 100 feet or closer to inhabited buildings.

Section 6-19. Burial of unembalmed remains.

For reasons of sanitation, all dead human remains interred in any cemetery owned by the City of Bath must be embalmed by a licensed embalmer unless cremated or buried in a water repellent, airtight outer burial container. Unembalmed remains may not be stored in the City receiving vault while awaiting burial.

### **ARTICLE 3. CEMETERY LOTS**

Section 6-20. Laying out of cemetery lots.\*

It shall be the duty of the Superintendent of Burials and Burial Grounds to lay out in Sections and/or ranges, divided into lots of suitable size, and with avenues of such width for the passage of vehicles, on land hereafter purchased or acquired by the City for use for the burial of the dead. (Ord. 8/15/49, 1 amended 10/13/76).

\*State law reference: As to power of City to purchase land for cemeteries, see 13 M.R.S.A. Chapter 83 (1964).

#### Section 6-21. Map of cemetery layout.

The Superintendent shall make or procure a map or plan of said new cemetery, with the streets, avenues, sections and/or ranges and lots properly designated and numbered, and place the map on file for the use of the City. The Superintendent shall keep this map currently correct. (Ord. 8/15/49, 2 amended 10/13/76)

#### Section 6-22- Supervision by Superintendent.

The Superintendent of Burials and Burial Grounds shall see that all burials in City cemeteries are made in proper conformity to the ranges and division of such cemeteries. It shall also be the duty of said Superintendent to have at all times a correct map of said cemeteries showing the location and number of each lot and the name and location of every person buried therein. (Ord. 8/15/49, 9 amended 10/13/76).

#### Section 6-23. Prices for burial rights.(Ord. 6/21/06)

A. When available in any City cemetery, burial rights in perpetuity shall be sold as lots at the following rates per grave space, payable in advance of a burial to the City of Bath. The Superintendent of Cemeteries and Parks shall issue appropriate documentation of the transfer of burial rights. (Ord. 6/21/06)

(1) Adult grave spaces shall be sold to residents of Bath, Maine, or individuals who upon determination by the Superintendent, have been deemed to have been a resident of Bath for a majority of their lives at a rate of seven hundred thirty-five dollars (\$735.00) of which five hundred eighty-eight dollars (\$588.00) is for perpetual care. (Res. 4/04/01)(Ord.4/18/01) (Res. 9/3/03)(Ord. 6/21/06)(Res. 6/6/12)

(2) Adult grave spaces shall be sold to non-residents of Bath, Maine at a rate of one thousand dollars (\$1,000.00) which includes eight hundred dollars (\$800.00) for perpetual care. (Res.4/04/01)(Res.9/3/03)(Ord. 6/21/06)(Res. 6/6/12)

(3) A child's grave space (3'X5') shall be sold to residents of Bath, Maine, or individuals who, upon determination by the Superintendent, have been deemed to have been a resident of Bath for a majority of their lives at a rate of one hundred forty dollars (\$140.00) per grave space which includes one hundred twelve dollars (\$112.00) for perpetual care. (Res. 4/04/01) (Ord. 04/18/01) (Ord. 6/21/06)(Res. 6/6/12)

(4) A child's grave space shall be sold to non-residents of Bath, Maine at a rate of two hundred ten dollars (\$210.00) per grave space (3' x 5') which includes one hundred sixty-eight dollars (\$168.00) for perpetual care. (Res. 4/04/01) (Ord. 6/21/06)(Res. 6/6/12)

(5) The standard cremation lot will be five (5) feet long and three (3) feet wide and will accommodate no more than four (4) burials. Cremation lots (3' x 5') shall be sold to residents of Bath, Maine, or individuals who, upon determination by the Superintendent, have been deemed to have been a resident of Bath for a majority of their lives at a rate of three hundred seventy dollars (\$370.00) which includes two hundred ninety-six dollars (\$296.00) for perpetual care.

(Res. 4/04/01) (Ord. 4/18/01)(Res.9/3/03) (Ord. 6/21/06)(Res. 6/6/12)

(6) Cremation lots shall be sold to non-residents of Bath, Maine at a rate of five hundred seventy-five dollars (\$575.00) which includes four hundred sixty dollars (\$460.00) for perpetual care. (Res. 4/04/01)(Res.9/3/03) (Ord. 6/21/06)(Res. 6/6/12)

(7) The following additional charge for burial rights will be billed for burials on grave space that are already occupied:

Regular full burials: one hundred sixty-five dollars (\$165.00)

Cremation burials: one hundred two dollars (\$102.00)

\* a lot is defined as one or multiple grave spaces

B. The proceeds of such sales of lots,\* half lots and single graves collected by the Superintendent of Burials and Burial Grounds, shall be turned over by him to the City Treasurer. Such proceeds shall be applied solely to the management, superintendence, improvement and maintenance of the cemeteries and the avenues, paths and structures situated therein, for the purchase of additional cemetery land and for the accumulation of a permanent care and improvement fund. (Ord. 8/15/49)

\*State law reference: As to the use of proceeds from sales of lots, see 13 M.R.S.A. 1305 (1964).

C. Resales or conveyances and purchase by the City will be in accordance with the following:

1. No person shall sell, transfer or convey any burial lot, half lot or single grave in a City cemetery except to the City. The City shall pay for the lot, half lot or single grave at a price not to exceed the then current price in effect for equivalent lot sizes.

2. The City, acting through the Superintendent of Burials and Burial Grounds, shall have the sole right to repurchase any burial lot, half lot or single grave, or any parts thereof or interest therein, from any person desiring to sell one. No sale, transfer or conveyance shall be effectual to confer any title or right of possession to any person other than the City.

3. Upon repurchase, the City will give no refund to the owners of existing lots who wish to resell them to the City for perpetual care already purchased by the sellers. (Ord. 2/16/77.)

D. Any of the prices for cemetery lots, or any other charges delineated in this section, may from time to time be revised or adjusted and established by Resolution of the City Council of the City of Bath.



#### Section 6-24. Deeds; Approval by City Solicitor; Restrictions.

All deeds to any City cemetery lot shall bear thereon, approval as to form and as to compliance with law, by the City Solicitor. Such deed shall provide for use of lots for burial of dead human bodies only, any use or attempted use otherwise to make the deed null and void. The deed is subject to and with full notice of all ordinances, rules and regulations of the City pertaining to cemeteries now in force or as may thereafter be adopted by the cemetery, or accepted by Grantee, recognized as covenants running with the land expressly made part of deed and binding upon Grantee, his heirs and assigns. (Ord. 8/15/49, 3; amended 10/13/76).

#### Section 6-25. Records of lot sales.

The Superintendent of Burials and Burial Grounds shall maintain a record of all lot sales, giving the number, section, name of purchaser, price and date of every lot sold, transferred or exchanged. He shall also keep a complete record of all such perpetual care and annual maintenance agreements. (Ord. 8/15/49, 6.)

#### Section 6-26. Perpetual Care and Trust Funds.

A. Perpetual care may be obtained on any lot or parcel within any cemetery under the jurisdiction of the City. Perpetual care trust funds can be established by tender to the City and acceptance by the City Treasurer on behalf of the City. These funds will be in the amount of eleven dollars and twenty-four cents (\$11.24) for each square foot of area purchased. Rates for perpetual care may from time to time be revised or adjusted and established by Resolution of the City Council of the City of Bath. (Ord. 4-26-89)(Res.9/3/03)

B. All lots, half lots or single graves sold in any new City cemeteries laid out in the future, in compliance with Section 6-20 and lots repurchased pursuant to Section 6-23D, when they are resold, shall be provided with "Perpetual Care" at the rate provided by this Section. To accommodate persons of limited income the Superintendent will have the option to waive Perpetual Care charges.

C. Any new area laid out and developed shall, for the purpose of this Section, be considered as a new part and/or section of the City cemeteries, whether on newly acquired land or land presently owned by the City of Bath, but not laid out as lots.

D. An agreement form prepared by the City Solicitor shall be executed and delivered as evidence of such arrangement and shall specifically provide for agreement to the provisions of this thereof and any rules thereunder. (Ord. 8/15/49, 4; amended 9/7/60; 10/13/76; 2/16/77).



E. Trust funds\* officially accepted by the Council prior to August 14, 1949, for the care of lots in cemeteries owned by the City, shall be retained by the City in perpetuity in accordance with the trust originally reposed in the City. Such funds shall be separately recorded, but may be invested jointly with other like funds. Interest thereunder shall be expended according to the terms thereof under the control of the City Manager by the Superintendent of Burials and Burial Grounds, the work to be performed by him or under his direction. Trust funds officially accepted by the City Council on or after August 15, 1949, for the care of lots and improvements thereon in cemeteries owned by the City shall be accepted on the following terms:

\*State law reference: As to the use of trust funds, see 13 M.R.S.A. 1261 et seq. (1964).

No such funds shall be less than five thousand dollars (\$5000.00).(Res. 6/6/12)

Such funds must be retained by the City in perpetuity.

Such funds shall be entered on the books of the City Treasurer and invested and held in accordance with the provisions of State Law. It shall not, however, be required that each fund be invested separately. Any fund may be merged with other similar funds for joint investment.

Unless otherwise specifically provided by the terms of the grant or bequest, the annual income (actually earned only) shall be expended in performance of the requirements of the trust, and only such portion thereof as is necessary, in the opinion of the Superintendent, to do so. A reasonable portion of the annually earned income may be gradually reserved for extraordinary repairs.

All expenditures for cemetery lot care must be for work actually performed, under the control of the City Manager, but all under the direction of the superintendent.

Consent in writing shall be given to all applicable provisions of this Chapter, or any amendments thereof, and any rule adopted under authority thereof. (Ord. 8/15/49, 23).

F. The price for perpetual care may from time to time be revised or adjusted and established by Resolution of the City council of the City of Bath.

#### Section 6-27. Annual maintenance.

A. The City will maintain lots in City cemeteries which are not under perpetual care for the following rates, payable in advance: Fourteen cents (14¢) per square foot, per year, for lots, half lots and single graves.

The charges for maintenance of lots not under perpetual care may from time to time be revised or adjusted and established by Resolution of the City Council of the City of Bath.

B. A receipt form prepared by the City Solicitor shall be executed and delivered as evidence of such maintenance arrangement and shall specifically provide for agreement to the provisions of this Chapter, any amendments thereof and any rules thereunder. (Ord. 8/15/49, 5; amended 9/7/60; 10/13/76).

## ARTICLE 4. PARK AREAS PROHIBITIONS

### Section 6-28. Park Areas - Prohibited Activities.

The following shall be prohibited activities in all designated City park areas:

A. Destroying or Removal at Park Areas Property. No person shall willfully mark, deface, disfigure, injure, tamper with or displace or remove any structure, table, bench, paving or paving material, water lines, public utility or any part or appurtenance to a public utility, sign, notice or placard whether temporary or permanent, monuments, stakes, posts or other boundary markers, any equipment, park facility or other property or appurtenance whatsoever, whether said property is real or personal. No person shall dig or remove any sand or soil, whether submerged or not, or any rocks, stones, trees, shrubs or plants by any means or agency whatsoever.

B. Construction Prohibited. No person shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such land except upon written permission granted by order of the City Council. However, any construction or erection for a period of three (3) days or less may be approved by the Superintendent.

C. Injuring or Trees and Vegetation; Attachment to Trees. No person shall damage, cut, carve, transplant or remove any tree or plant or injure the bark or pick the flowers or seeds of any tree or plant or dig in or otherwise disturb grass areas or in any other way injure or impair the natural beauty, usefulness or utility of the area. No person shall attach any rope, wire or other contrivance to any tree, plant, structure, facility or equipment.

D. Depositing Trash - Use of Receptacles. No person shall bring in, dump, deposit, throw, discharge, leave or otherwise place any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse or any other trash upon any park area facility. No refuse or trash shall be placed in any waters or left anywhere on the grounds but shall be placed in proper receptacles where such receptacles are provided. Where receptacles are not so provided, all such rubbish or waste shall be carried away from the park facility by the person responsible for its presents, and properly disposed of elsewhere.

E. Camping Prohibited. No person shall set up any tent, shack or any other temporary shelter for the purpose of overnight camping, or leave in any park facility area any movable structure or special vehicle to be used or that could be used for such purpose, such as a house trailer, camp trailer, camp wagon or any other structure or vehicle of like nature.

F. Fires and Fireworks Prohibited. No person shall bring or have in his possession or set off or otherwise cause to explode, discharge or burn any firecrackers, torpedoes, rockets or other fireworks or explosives or inflammable material onto any park facility area nor shall any person discharge them or throw them into any such park area from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with any substance or compound would be dangerous from any of the foregoing standpoints. No person shall build or attempt to build a fire upon property designated as a park area.

G. Disorderly Conduct Prohibited. No person shall engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in disorderly conduct or behavior tending to be a breach of the peace in any park area.

H. Illegal Drugs Prohibited. No person in a park area shall be in possession of or use any illicit, illegal or scheduled drugs, as defined under the Laws of the State of Maine or the Laws of the united States of America.

I. Closing Hours. The hours of operation of designated park areas shall be determined by the Superintendent of Cemeteries and Parks and/or City Council as applicable and posted as to give reasonable notice to the public as to the hours of operation and closing time of such facility. It shall be a violation of this Section for any person to be in or upon a park area beyond the posted closing time.

J. Alcoholic Beverages. Alcoholic beverages shall be prohibited from all park areas and it shall be a violation of this Section to carry onto such areas or consume on such areas any such alcoholic beverage. Scheduled events as may be permitted by the City at the Library Park and/or Waterfront Park may allow the sale and consumption of alcoholic beverages in connection with that event. Such sale and consumption shall be in accordance with applicable State Liquor Laws and Regulations. (Ord. 4/6/2016)

K. Firearms. No person shall carry a firearm onto a park area except for duly authorized law enforcement officials.

L. Dogs. Cross reference with Dog Ordinance (Chapter 4, Article I., Section 4.07 g & h)

M. Stones and Missiles. No person shall throw or cause to be thrown any stone or other missile while located upon a park area.

N. Bills and Notices Prohibited. No person shall post any bill, notice or any other devise on any tree or structure within a park area except for the kiosk at the waterfront park, subject to prior approval of the Harbormaster.

(Cross-reference - see Section 17-352 regarding the prohibition of motor bikes and all-terrain vehicles within park areas).

#### Section 6-29. Penalties.

Any person convicted of violating any of the prohibitions designated in Section 11.01 shall be subject to a fine not to exceed Two Hundred Dollars (\$200.00) for the first offense and not to exceed Five Hundred Dollars (\$500.00) on any second or subsequent offense, all fines being payable to the City of Bath. These penalties are in addition to any penalties, criminal or civil, which may be imposed for such behavior under applicable State Law.

## **ARTICLE 5. BATH COMMUNITY FORESTRY ORDINANCE (Ord. 6/24/09)**

### **Section 6-101 Purpose**

The purpose of this ordinance is to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, protection, maintenance, and removal of trees, shrubs, and other plants on property of the City of Bath, including city-owned rights-of-way.

### **Section 6-102 Administration and Enforcement**

It shall be the duty of the Director of Cemeteries, Parks and Recreation and/or his designee to enforce and administer the provisions of this ordinance. Any person may appeal, in writing, any ruling or order issued by the Director of Cemeteries, Parks and Recreation and/or his designee by filing a notice of appeal with the City Manager within seven (7) days of date of the ruling or order.

### **Section 6-103 Bath Community Forestry Committee (1/3/2018\*)**

A. Establishment: There is hereby established a Bath Community Forestry Committee.

B. Duties: The Committee shall have the duty and responsibility to oversee the administration and implementation of this ordinance, the purposes and activities of the Bath Community Forestry Trust, the Bath Community Forestry Management Plan and such other activities as affect the Bath community forest.

\*C. Members: The Bath Community Forestry Committee shall consist of no fewer than five (5) members, and no more than eleven (11) members who shall serve three (3) year terms. One (1) of the members shall be a member of the Bath City Council and all members shall be appointed by the Bath City Council. The members shall also constitute the Board of Trustees of the Bath Community Forestry Trust. The terms of the Committee members shall coincide with the terms of the Trustees, and an appointment as a member of the Bath Community Forestry Committee shall constitute an appointment as a Trustee of the Bath Community Forestry Trust. Terms shall run through September 30<sup>th</sup>. The term of the City Council Representative shall be a one (1) year term and coincide with the Council year and with Council appointments made in January of each year. Reference shall be made to Section 1(a) of the Bath Community Forestry Trust.

D. Ex Officio Members: The Director of Cemeteries, Parks and Recreation and the City Arborist serve the Committee as non-voting ex officio members.

E. Compensation: All members of the Committee shall serve without compensation.

### **Section 6-104 Applicability**

The terms and provisions of this ordinance shall apply to all public trees and shrubs

located on public property, including city rights-of-way.

## Section 6-105

## Definitions

For purposes of this Article, the following terms shall have the meaning indicated. Terms not defined shall have their usual and customary meaning unless otherwise indicated by their use and context. Where the word "shall" is used, it is considered mandatory and not merely directory.

### *Abutter*

is one whose property touches or adjoins along a border boundary or with a projecting part theof the property of another.

### *Forestry Division*

is the designated agency of the municipality of Bath under whose jurisdiction the public trees fall. trees, shrubs and plants known as "public trees" fall. This is a Division of the Cemeteries, Parks and Recreation Department.

### *Person*

is any individual, firm, partnership, association, corporation, company, organization, or legally organized entity of any kind.

### *Property Owner*

shall mean the person owning such property as shown by the City of Bath tax assessor's records, or the most recent transferee(s) as reflected in the indices or records of the Sagadahoc Country Registry of Deeds., unless proof to the contrary is available.

### *Public Hazard*

is a condition of any public tree or any other non-public tree, shrub or plant or any substantial portion of a public tree or any other non-public tree, shrub or other plant which constitutes a hazard to life natural persons or and property or harbors insects or disease which constitutes a potential threat to other public trees or any other non-public trees, shrubs, or plants within the City.

### *Public Property*

shall include all property owned, leased, or occupied by the City of Bath.

### *Public Tree*

shall include all trees, shrubs and other plants on public property, including City rights-of-way.

### *Skeletal Soils* are defined as

a soil matrix mixture of gap-graded gravels composed of: crushed stone narrowly graded from  $\frac{3}{4}$  - 1  $\frac{1}{2}$ ", highly angular and with no fines; clay loam based on USDA soil classification system, with organic matter ranging between 2% and 5%; and a hydrogel added in a small amount to act as a tackifier, preventing the separation of the stone and soil during mixing and installation. The mixture ratio shall be 4:1.4 of stone:clay loam. The mixture shall be installed and compacted to achieve a compaction density to within 95% Proctor density.

*Street or Highway*

is the entire width of every public way or right-of-way when all or any part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular or pedestrian traffic.

*Topping* is

the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

*Tree Sizes:*

*Large Trees*

are designated as those tree species that habitually attain a mature height of forty-five (45') feet (45') or more.

*Medium Trees*

are designated as those tree species that habitually attain a mature height of thirty (30') to forty-five (45') feet (45').

*Small Trees*

are designated as those tree species that habitually attain a mature height of thirty (30') feet (30') or less.

Section 6-106

Permits

A. 1. Permit Required: Any person engaged in the business or occupation of pruning, planting, transplanting, treating, or removing public trees shall be required to secure a permit in advance of any such activity, said permit to be issued by the Director of Cemeteries, Parks and Recreation and/or his designee.

B. 2. Permit Requirements:

o(1) Each applicant shall possess and show proof of a current Maine Arborist License, and be a Certified Nurseryman, or show evidence of proficiency in the care of trees. Tree Care Industry Association (TCIA) accredited, or International Society of Arboriculture (ISA) certified.

(2) Each applicant shall carry insurance furnishing benefits in accordance with the State of Maine General Laws or such other worker's compensation requirement as may pertain. The applicant shall also carry insurance coverage for employer's liability, general liability, including broad form coverage, and automobile liability, in an amount of not less than One Million Dollars (\$1,000,000.00), as well as insurance covering property damage in an amount not less than One Hundred Thousand Dollars (\$100,000.00) indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavor as herein described.

(3) Any permit issued pursuant to this Section shall be revoked if the applicant's

licensure identified in Section 6-106(B)(1) above is suspended or otherwise terminated, or if the applicant's required insurance coverage identified in Section 6-106(B)(2) above expires or lapses.

3.(4) 3. Any permit issued shall run for a period of no longer than one (1) year from the date of issue, unless otherwise specified or terminated pursuant to Section 6-106(B)(3) above..

4.C. 4. Notice Requirement: Prior to initiating any activity, the permittee shall notify the [Superintendent of Cemeteries and Parks](#) or Director of Cemeteries, Parks and Recreation and/or his designee as to the location of work on any public tree no less than forty-eight (48) hours prior to the commencement of the work.

5.D.5. Exception: Pruning, planting, removing or any other tree work done on public trees by volunteers or City employees under the supervision and operation of the [Superintendent of Cemeteries and Parks](#) or Director of Cemeteries, Parks and Recreation and/or his designee, shall not require a permit under this section. Work on public trees by an electric utility company shall not require a City permit.

#### Section 6-107 Contract Supervision and Inspection

It shall be the duty of the Director of Cemeteries, Parks and Recreation and/or his designee to supervise and enforce all provisions of any contracts executed by or on behalf of the City concerning work within the scope of this ordinance.

#### Section 6-108 Landscaping

Landscape plans and landscaping on Public Property and landscape plans and landscaping submitted for approval by the Bath Planning Board shall be reviewed by the Director of Cemeteries, Parks and Recreation and/or his designee with the assistance of the Bath Community Forestry Committee. Any landscaping plans submitted for approval by the Bath Planning Board shall include a Tree Preservation Plan reviewed and approved by the Director of Cemeteries, Parks and Recreation and/or his designee. with the assistance of the Bath Community Forestry Committee Tree Preservation Plans submitted shall follow the City's Tree Preservation Guidelines.

#### Section 6-109 Specifications and Standards

American National Standards Institute (ANSI) and [Maine Landscape & Nursery Association Landscape](#) (MeLNA) Contract Specifications or any amendments or substitutes therefore shall be followed and enforced as a minimum standard for planting. All pruning shall meet, as a minimum standard, the Pruning Standards for Shade Trees published by the National Arborist Association or similar national organization. The Forestry Division may establish policies, procedures, or regulations which shall also be followed. Copies of these materials will be available to the general public at the Office of the Director of Cemeteries, Parks and



## Recreation.

### Section 6-110

### Tree Planting, Maintenance, and Removal

#### Authority to Plant or Remove Trees on Public Property

##### A.

Trees planted on public property by abutting property owners or other persons shall be selected and located in accordance with Tree Planting, Section 6-110(B-G)( of this ordinance and in accordance with Forestry Division policy. Notification shall be made to the Director of Cemeteries, Parks and Recreation and/or his designee and approval given, prior to any planting. In addition, Dig Safe, the Bath Public Works Department and the Bath Water District shall be consulted before any planting.

#### 2.B. Tree Species To Be Planted On Public Property

The Recommended Tree Species List published by the Maine Urban & Community Forestry Council or its successor shall be used.. These resourcesThis list shall be made available to the general public at the Office of the Director of Cemeteries, Parks and Recreation, and theitsir use shall be encouraged for private planting. At the discretion of the Director of Cemeteries, Parks and Recreation and/or his designee resources identifying trees in similar hardiness zones may be relied upon by the City Arborist.

#### 3.C. Spacing and Minimum Area/Volume For Planting On Public Property

(1) a. Except in special plantings designed or approved by the Director of Cemeteries, Parks and Recreation and/or his designee, the spacing of City-owned trees shall be in accordance with the species sizes listed under Definitions, Section 6-105, of this ordinance, and no trees may be planted closer together than the following:

Species Size	No less than: tree spacing:
Small Trees	20 ft.
Medium Trees	30 ft
Large Trees	40 ft.

b.(2) Except in special plantings designed or approved by the Director of Cemeteries, Parks and Recreation and/or his designee, any tree planted must have an area of unrestricted soil surface open to air and water as follows:

Species Size	No less than: area
Small Trees	36 sq. ft.
Medium Trees	48 sq. ft.
Large Trees	60 sq. ft.

c.(3) Except in special plantings designed or approved by the Director of Cemeteries, Parks and Recreation and/or his designee, any tree planted within a City right of way or adjacent to a sidewalk, shall have an adequate soil volume in relation to the tree's mature size as follows:

Species Size	No less than: soil volume
Small Trees	36 cu. ft.
Medium Trees	48 cu. ft.
Large Trees	60 cu. ft.

These soil volumes can be achieved by using skeletal soils, as defined in 6-105, in the engineering of sidewalk design or renovation. The City Arborist shall approve all such designs. All such designs shall be submitted to the Director of Cemeteries, Parks and Recreation and/or his designee for approval prior to any plantings.

#### D. 4. Distance from Curb, Sidewalk, Street Corner, Driveway and Building on Public Property

The distance trees may be planted from curbs or curb-lines, sidewalks, street corners, driveways, buildings and sidewalks shall be in accordance with the species sizes listed in Definitions, Section 6-105, of this ordinance. No trees may be planted closer to any curb, sidewalk, driveway, building or street corner than the following:

Species Size	Distance to Curb or Sidewalk	Distance to Driveway or Building	Distance to Street Corner
Small Tree	2 ft.	10 ft.	15 20 ft.
Medium Tree	3 ft.	10 ft.	15 20 ft.
Large Tree	4 ft.	10 ft.	15 20 ft.

#### 4.5. E. Utilities and Hydrants

No public tree shall be planted within ten feet (10') of any hydrant or any underground utilities. Only small trees may be planted under or within 10 feet (10') of any overhead utility wire.

6.

#### F. Public Tree Care

(1) b. The Forestry Division shall have the right to prune, spray, maintain, and remove public trees as may be necessary to ensure public safety or to preserve or enhance the beauty of public places. Spraying shall be undertaken in accordance with State laws. Notice of intent to remove, extensively prune or spray any public tree in a City-owned right-of-way shall be made in writing to abutters of that right-of-way. Any objecting person shall be allowed seven (7) days from the date of notice to request in writing a public hearing concerning the proposed work. Upon receipt of written request from any such abutter, the Director of Cemeteries, Parks and Recreation and/or his designee shall hold a public hearing concerning the proposed work within 14 days of the date of said request. Said work shall not occur until after said public hearing.

c.(2) c. The Forestry Division shall have the right to prune any public tree if, in the opinion of the Director of Cemeteries, Parks and Recreation and/or his designee, it interferes with visibility of any traffic control device or intersection, or interferes with pedestrian or

vehicular traffic. A clearance of fourteen feet (14') above street surface or eight feet (8') above the sidewalk surface shall be maintained. If such obstructing public tree is on private property, the Director of Cemeteries, Parks and Recreation and/or his designee shall notify the property owner of the intent to prune. The property owner shall have a right to object in writing in accordance with the requirements of Section 6-110(F)(1) above, and a public hearing shall be held in accordance with the terms thereof.

(3) d. The Forestry Division may remove any public tree or part thereof which by reason of its nature damages or otherwise impairs sewers, electric power lines, gas lines, water lines, or other services, or is affected by an injurious fungus, disease, insect, or other pest. In each case, the abutters will be notified within twenty-four (24) hours in advance. The abutters shall have a right to object in writing in accordance with the requirements of section 6-110(F)(1) above and a public hearing shall be held in accordance with the terms thereof.

e. (4) In case of an emergency as determined by the Director of Cemeteries, Parks and Recreation and/or his designee, work may be performed without written notification.

#### 6.7. G. Tree Topping

It shall be unlawful for any person or the City to top any public tree. Trees severely damaged by storms or other causes may be exempted from this prohibition at the determination of the Director of Cemeteries, Parks and Recreation and/or his designee. In lieu of topping, public trees under utility wires or other obstructions where other pruning practices are impractical or not considered aboriculturally sound may be removed by the Director of Cemeteries, Parks and Recreation and/or his designee.

### Section 6-111 Protection of Trees on Public Property

#### 1.A. During Excavation or Construction

All trees near any excavation or construction of any building, structure, or street work, shall be guarded with a substantial fence, frame, or box centered around the tree not less than four feet (4') high and enclosing an area of sixty-four square feet (64 sq. ft.), or at a distance in feet from the tree equal to the diameter of the trunk in diameter breast height (D.B.H.), whichever is greater, and all building material, dirt, or other debris shall be kept outside the barrier.

No person shall excavate any ditches, tunnels, trenches, or lay any drive within the radius of ten feet (10') from any city-owned tree without first obtaining a written permit from Director of Cemeteries, Parks and Recreation and/or his designee.

#### 2.B. Placing Materials on Public Property

No person shall deposit, place, store, or maintain upon any public property anything which may impede the free passage of water, air or fertilizer to the roots of any tree growing

therein, except by written permit of the Director of Cemeteries, Parks and Recreation and/or his designee.

3.

#### 4. C. Abuse or Mutilation of Trees On Public Property

Under no circumstance shall any person

a.cut, carve, transplant, or remove any public tree;

b.b.attach any rope, wire, nails, advertising posters, or other contrivance to any public tree;

c.allow any gaseous, liquid or solid substance which is harmful to trees to come in contact with any public tree; or

d.set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree.

#### 4.D. Destruction of Trees on Public Property

Any public tree deemed a public hazard or destroyed as a consequence of negligence, gross negligence, or intentional acts shall be valued by the Director of Cemeteries, Parks and Recreation and/or his designee as the sum of any removal and disposal costs, plus the replacements costs of a minimum two inch (2") caliper tree, its installation, care and maintenance, including watering, for the first three (3) years after planting. If the location of the destroyed tree does not meet the planting requirements of 6-110, the Director of Cemeteries, Parks and Recreation and/or his designee may replace the public tree at another location of his choosing.

### Section 6-112 Interference With Forestry Division Employees

It shall be unlawful for any person to prevent, delay, or interfere with any Forestry Division employee, volunteer, or contractor hired by the Forestry Division, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any public tree, as authorized in this ordinance Section 6-110.

### Section 6-113 Violations

Any failure to comply with the terms, conditions, provisions, or any notice issued pursuant to this ordinance, shall constitute a violation.

### Section 6-114 Penalties

Any person who violates any provision of this ordinance shall be subject to a fine payable to the City of Bath of up to \$100.00 each day of the violation. No penalty shall be assessed for failure to act during any notice period, unless remediation ordered by any notice is not accomplished within the designated timeframe.

In addition, if, as a result of the violation of any provision of this ordinance, the injury, mutilation, or death of a public tree occurs, the penalty shall include the replacement value of the

public tree as calculated in accordance with Section 6-111(D) hereof.

## Section 6-115 Severability

Should any section, clause, or provision of this ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the ordinance as a whole, or parts thereof, other than the part so declared to be invalid.

## REFERENCES:

1. Buchanan, Tim, City Forester, City Forestry Standards and Specification. 1986. [Municipal Code Fort Collins, Colorado](#).
  2. 1919 Code of the [City of Bath, Maine](#) re: City Forester.
  3. Memo from Bath, Maine City Manager, Larry D. Cilley, to Therriault & Golin, City Solicitors, dated 5/9/78, re: Clarification of City Forester's Responsibilities and Authorities.
  4. Memo from City Manager, Duncan Ballantyne, to [Denis Hebert](#), dated 6/27/93, re: Transfer of Forestry Division to [Cemeteries and Parks Department, Bath, Maine](#).
  5. Municipal Tree Ordinance Manual. Revised Edition 1990. [International Society of Arboriculture](#) in cooperation with the Municipal Arborist and Forester Society, Savoy, IL.
  6. Sample Municipal Tree Ordinance designed for mid-western communities. (General)
  7. Sample Municipal Tree Ordinance for [Stevens Point, Wisconsin](#).
  8. [South Portland, Maine](#), Tree Ordinance. 1975.
  9. [Maine State Law](#) Title 30-A, Sections 3101, 3252-3264, 3282-3291; Title 12, Sections 8101-8305; Title 23, Sections 2702 and 2952.
  10. Tree City USA Bulletin, No. 9, How to Write a Municipal Tree Ordinance. 1993. The [National Arbor Day Foundation](#), Nebraska City, Nebraska.
  11. [Waterville, Maine](#), Tree Ordinance. 1990.
  12. [Westbrook, Maine](#), Tree Ordinance. 1972.
  13. Tree Preservation Guidelines, 2006, and any amendments thereto
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## **CHAPTER 7.**

### **PURCHASING AND FINANCE**

#### **Article 1. PURCHASE AND SALE OF PROPERTY**

- § 7.101 Purchasing Agent; powers and duties
- § 7.102 Purchases; limitations
- § 7.103 Purchases; written requisition required
  - § 7.104 Purchases; under \$4,000
  - § 7.105 Purchases; \$4,000 and over
  - § 7.106 Purchase of services
  - § 7.107 Purchases; competitive bid procedure
  - § 7.108 Purchases; awards
- § 7.109 Purchases; records
  - § 7.110 Purchases; unusual
  - § 7.111 Purchases; emergency
  - § 7.112 Purchases; combined
- § 7.113 Sales; under \$1,500
  - § 7.114 Sales; \$1,500 or more; real estate
  - § 7.115 Annual public sale

#### **Article 2. MUNICIPAL TAXES**

- § 7.201. Due Date

## **CHAPTER 7. PURCHASING AND FINANCE**

### **ARTICLE 1. PURCHASE AND SALE OF PROPERTY**

#### **Section 7.101. The Purchasing Agent; powers and duties.**

The Purchasing Agent shall have under his/her supervision and management the purchase of all supplies, materials and equipment for the use of the City in the operation and maintenance of its several departments. All the provisions of this Article shall apply to the School Department and the designated agent within that department responsible for purchases. He/She shall establish and enforce specifications with respect to supplies, materials, and equipment required by the City Government. He/She shall inspect or supervise the inspection of all deliveries of supplies, materials, and equipment and determine their quality, quantity and conformance with specifications. He/She shall have charge of such general store-rooms and warehouses as the Council may provide by ordinance. He/She is granted authority to supervise and manage the sale or transfer of property within departments, including real estate, subject to the limitations of this Article.

#### **Section 7.102. Purchases; limitations.**

No purchase of supplies, material and equipment shall be made unless funds are appropriated for by the Council, except as otherwise provided in the City Charter or by specific order of the City Council.

#### **Section 7.103. Purchases; written requisition required.**

Purchases shall be made by requisition, in such form as the Purchasing Agent may require. All such requisitions shall state the quantity, quality, description and other specifications of the item or items desired, and shall be signed by the head of the department, office or agency against whose appropriation such expenditure is to be charged. Specifications shall be in such forms as to permit competitive bidding whenever practicable.

#### **Section 7.104. Purchases; under \$4,000.00.**

Purchases involving less than Four Thousand Dollars (\$4,000.00) may be made in the open market by the Purchasing Agent without competitive bids, but shall be on a competitive basis to the maximum extent practicable.

#### **Section 7.105. Purchases; \$4,000.00 and over.**

On all purchases, except as provided in Sections 7-10. and 7-11. hereof, involving an expenditure of Four Thousand Dollars (\$4,000.00) or more, the normal procedure shall be to seek competitive bids. This may be accomplished by publishing a notice describing the supplies, material or equipment desired to be purchased and affixing a date and time limit for the reception of bids, said publication to be one (1) time in a



newspaper having general circulation in the City of Bath, said time at least five (5) days prior to the date of closing of bids. As an alternate method, the City may directly solicit bids from a representative number of vendors where it is deemed by the Purchasing Agent that this method more appropriately suits the nature of the supplies, material or equipment sought to be purchased.

#### **Section 7.106. Purchase of services.**

In instances where the City is purchasing services, there need not be any competitive bid process, except in instances where such a process is required by order of the Bath City Council or deemed to be an appropriate method of obtaining services in the judgment of the Purchasing Agent.

#### **Section 7.107. Purchases; competitive bid procedure. -**

All bids shall be in writing, sealed, with outside envelope or wrapper plainly marked "Bid, not to be opened until" (with appropriate date inserted) and mailed to or filed with the Purchasing Agent. No official or employee of the City shall open such a bid until the appointed time. At the time and place stated in the notice, all bids shall be opened and publicly read by the City Purchasing Agent or by someone designated by him for that purpose. All such bids may be inspected by those present.

#### **Section 7.108. Purchases; awards.**

(a) Awards following competitive bids or proposals shall be made by the Purchasing Agent to the lowest bidder, price, quality and service considered, subject to the authority of the purchasing Agent to reject any and all bids. Nothing herein shall be construed to affect the authority of the Purchasing Agent to reject any bid on any reasonable basis.

(b) The Purchasing Agent, in determining lowest responsible bidder, price, quality and service considered shall allow all bidders having a place of business within the City limits of the City of Bath a preference of two per cent (2%) of the amount of such bid submitted by such local bidder, and in the event that any bid submitted by local bidder shall be less than two per cent (2%) in excess of the bid submitted by a bidder not having a place of business within the limits of the City of Bath, such bid shall be awarded to such local bidder, providing such local bidder is in all other respects a qualified and responsible party and that his, hers or its bid shall meet all other specifications of such invitation to bid.

(c) All purchases exceeding One Hundred Thousand Dollars (\$100,000.00) shall be awarded in a public meeting by the City Council.

#### **Section 7.109. Purchases; records**

The Purchasing Agent shall keep a record of all submitted bids and all purchases made under Sections 7-110. and 7-111. hereof without bids, and such record shall be open to inspection by any interested person.

#### **Section 7.110. Purchases; unusual.**

When the nature of a purchase renders the competitive bidding process ineffective by virtue of a single supplier or other complication, the Purchasing Agent shall document in full detail the nature of the purchase and the technique used to insure the best quality and price for the City. Such documentation shall suffice for the records required in Sections 7-106, 7-107, and 7-108 of this Article.

#### **Section 7.111. Purchases; emergency**

In the case of any emergency or unusual circumstances, a department head, acting with the advice and approval of the City Manager, may require the immediate purchase of materials, supplies, apparatus, or property in the open market at the lowest price obtainable. The Purchasing Agent shall notify the City Council as soon as possible after the emergency situation has subsided, as to the steps taken to affect the purchase, the emergency situation that existed, and the methodology utilized to assure the best possible price given the attendant circumstances.

#### **Section 7.112. Purchases; combined.**

The City Purchasing Agent is hereby authorized to combine with other units of Government, the Maine Municipal Association, or any other organization formed to increase the purchasing power of the City for purchasing purposes, in which event such regulations as may be jointly agreed to shall be applicable in lieu of the regulations herein.

#### **Section 7.113. Sales; under \$1,500.00.**

The Purchasing Agent shall conduct the sale of any municipal supplies, material and equipment no longer required by the City, of value less than One Thousand Five Hundred Dollars (\$1,500.00) on request of the proper department head, and in such manner as provided by this Article.

#### **Section 7.114. Sales; \$1,500.00 or more; real estate.**

A. Municipal Property. No Municipal Property, supplies, material or equipment of a value that exceeds \$1,500 may be sold by the City of Bath unless the sale is authorized by Order of the Council. The sale will be conducted in the same manner and subject to the same requirements as those applicable to purchases in amounts of \$4,000 as provided in Section 7-5.

B. Real Estate.

1. General. With the exception noted in Subsection 2 below, the City Council shall determine when and in what manner real estate owned by the City of Bath may be disposed of. The City council may consider disposing of real estate under the following methods:

- a. Sale by solicitation of public bids;
- b. Sale by solicitation of limited bids where the market of the property appears limited to a few potential purchasers;
- c. Lease where use of the property by another entity is deemed appropriate and in the city's interest but permanent disposal of the property is deemed inappropriate.
- d. Sale to an abutter without bid process where the nature of the property is such that only an abutter would have any interest in acquiring the real estate;
- e. Gift of the property without compensation to the City where it is deemed to be in the city's best interests (i.e. conveyance of property to a non-profit entity proving a service of benefit to the citizens of Bath, or disposition of real estate to put the property back on the tax roles etc.)
- f. Any other disposition of real estate by a method that is deemed the City Council to be in the best interest of the City of Bath.

2. Tax Acquired Property. Property which has been acquired by the City of Bath for nonpayment of taxes pursuant to 36 M.R.S.A. Section 943, and for which the period of redemption has expired, may be returned by Municipal Quit-Claim Deed to the taxpayer who was the owner of record of the property at the time of acquisition by the City, or that taxpayer's successor in interest. The Quit-Claim Deed is to be executed by the City Manager and the City Treasurer without the necessity of Council action. The Deed shall not be delivered to the taxpayer or successor until the payment of all back taxes, interest and costs, including such taxes, together with appropriate interest and costs thereon, which would have become assessed and due during the period it was City owned. (Ord. 5/6/98)

### **Section 7.115. Annual public sale.**

All surplus or obsolete equipment, machinery, tools, supplies and all other articles belonging to the City for which there is no longer any use, shall be sold by the Purchasing Agent at public sale once each year. All articles to be disposed of by the purchasing agent at such sale shall be subject to approval by the City Council, and the time of such sale shall be fixed by vote of the City Council each year.

## **ARTICLE 2. MUNICIPAL TAXES**

### **Section 7.201. Due Date.**

The date upon which property taxes shall become due and payable for property taxes assessed by the City for the fiscal year beginning July 1, 1994, shall be December 30, 1994. For subsequent fiscal years beginning July 1, 1995, the tax due date shall be the first day of the fourth month of the City's fiscal year. Should such day fall on a Saturday, Sunday or a holiday, then the tax due date will be on the next day which is not a Saturday, Sunday or a holiday. Interest shall accrue and shall apply to delinquent taxes which are not paid by the close of business on the specified due date, until those taxes are paid in full. The rate of interest shall be established yearly by Resolution of the City Council. (Ord. 10-19-94)<sup>27566</sup>

## CHAPTER 8

### FIRE PREVENTION\*

#### ARTICLE 1. OIL BURNING EQUIPMENT

- §8-1. Title.
- §8-2. Applicability
- §8-3. Standards.
- §8-4. Retroactivity.
- §8-5. Permits.
- §8-6. Inspection and approval.
- §8-7. Modification.
- §8-8. Appeals.
- §8-9. Penalties.
- §8-10. Repeal of conflicting ordinances.
- §8-11. Severability.

#### ARTICLE II. LIFE SAFETY AND FIRE PREVENTION CODES

- §8-101. Title
- §8-102. Standards - Life Safety Code.
- §8-103. Same - Fire Prevention Code.
- §8-104. Appeals.
- §8-105. Penalties.
- §8-106. Repeal of conflicting ordinances.
- §8-107. Severability.

\*Editor's note-Ord. No. 87-8, adopted July 1, 1987, effective July 22, 1987, amended Ch. 8 in its entirety, to read as herein set out. Former Ch. 8, §§ 8-1-8-21, 8-30-8-40, 8-50-8-57, pertaining to fire department, explosives, gasoline and flammable liquids, oil burning equipment, and life safety and fire prevention codes, was derived from RO 1920, Ch. XIX, §§ 1-3, 5-7, 9, 12-15; Ch. XX, §§ 1, 2, 4, 5; Ch. XXI, §§ 1-4, 6, 7; and Ordinances of Nov. 17, 1976, Sept. 19, 1979, and Feb. 9, 1983. -

**Cross references**-Building and electrical codes, Ch. 4A; housing safety standards, § 9-45 et seq.; fireworks, § 10-1 et seq.; alarm systems, § 10-62 et seq.; fires and fireworks prohibited in parks, § 11-15; following fire apparatus, § 17-302;  
driving across fire hose, § 17-303.

**State law reference** - Fires and fire prevention generally, 30 M.R.S.A.  
§3771 et seq. (1964).

## **ARTICLE 1. OIL BURNING EQUIPMENT\***

### **Sec. 8-1. Title.**

This ordinance shall be incorporated in the Code of the City of Bath as Chapter 8, Fire Prevention, Article 1, Oil Burning Equipment.

(Ord. No. 87-8, 7-1-87)

### **Sec. 8-2. Applicability.**

This article shall apply to all persons, firms, corporations, copartnership, and governmental agencies except federal, installing oil burning equipment or storing, handling or using fuel oil used in connection with oil burning equipment.

(Ord. No. 87-8, 7-1-87)

### **Sec. 8-3. Standards.**

This article incorporates by reference sections 1-1 through 5-1.6.4 and appendices A through F of the NFPA Standard 31 entitled "Standard for the Installation of Oil Burning Equipment" with applicable amendments.

(Ord. No. 87-8, 7-1-87)

State law reference-Authority of municipalities to adopt codes by reference, 30 M.R.S.A. § 2156 (1964).

### **Sec. 8-4. Retroactivity,**

Existing oil burning equipment or existing fuel oil storage used in connection with oil burning equipment which is not in strict compliance with the terms of this article may be continued in use provided it does not constitute a distinct hazard to life or adjoining property. When the codes enforcement officer deems that the continued use will constitute a distinct hazard to life or adjoining property, he shall notify the owner or operator and specify the reason in writing.

(Ord. No. 87-8, 7-1-87)

\*State law reference-Licensing of oil burner men, requirement that all oil burning equipment conform to state regulations, 32 M.R.S.A. § 33 (1964).

### **Sec. 8-5. Permits.**

Approval issued pursuant to this article shall be obtained from the codes enforcement officer for the installation of any oil burning and any fuel oil tank used in connection therewith in excess of twenty-five (25) gallons in a building or in excess of sixty (60) gallons outside of a building.

(Ord. No. 87-8, 7-1-87)

#### **Sec. 8-6. Inspection and approval.**

(a) Application for approval to install oil burning equipment or store, handle or use fuel oil in connection with oil burning equipment as herein required shall be made in writing to the codes enforcement officer. The codes enforcement officer shall then cause an inspection to be made of the premises and equipment proposed to be used. If they are found to be in compliance with this article, a statement to that effect shall be noted on the application and the application signed by the person making the inspection. The codes enforcement officer shall thereupon grant a permit as applied for.

(b) Before operating any oil burning equipment or fuel oil tank used in connection with oil burning equipment for which approval is required, notification shall be given to the codes enforcement officer and he shall, within two (2) working days thereof, cause such premises to be inspected.

(c) The codes enforcement officer or his authorized agent may at any reasonable time inspect premises, buildings or installations involving oil burning equipment or fuel oil used in connection therewith. If a violation of this article is found to exist, he shall file with the owner, occupant, or operator a notice citing the violation and ordering its correction. If such order is not complied with, the codes enforcement officer may suspend the permit granted for such facility, or take such other action as may deem necessary to abate the violation.

(d) Oil burning equipment and tanks and containers meeting the standards of a nationally recognized testing agency, or which are acceptable to the codes enforcement officer, shall be considered as meeting the requirements of this section.  
(Ord. No. 87-8, 7-1-87)

#### **Sec. 8-7. Modification.**

The codes enforcement officer shall have the power to grant exemption from application of this article upon request in writing so to do when such request shows that the enforcement of this article will cause unnecessary hardship to the petitioner, provided that said request shall not be granted where the requested use will constitute a distinct hazard to life or adjoining property. The particulars of such exemptions when granted shall be entered upon the approval granted. A copy thereof shall be retained by the codes enforcement officer. (Ord. No. 87-8, 7-1-87)

#### **Sec. 8-8. Appeals.**

An owner, lessee, agent, operator, or occupant aggrieved by any order issued pursuant to this article may file an appeal in accordance with the procedures outlined in Section 8-104.  
(Ord. No. 87-8, 7-1-87)



### **Sec. 8-9. Penalties.**

Any person who shall fail to comply with the provisions of this article or with an order of any authority having jurisdiction issued pursuant thereto, and from which no appeal has been taken, or with such an order as affirmed or modified on appeal within the time fixed therein, shall be guilty of a class E crime. The imposition of a penalty for the violation of such order shall not excuse the violation or permit it to continue. Such penalty shall not limit the authority of the city to seek abatement of a violation through procedures under Rule 80K or other applicable enforcement methods.  
(Ord. No. 87-8, 7-1-87)

### **Sec. 8-10. Repeal of conflicting ordinances.**

All former ordinances or parts thereof conflicting with the provisions of this article are hereby repealed.

(Ord. No. 87-8, 7-1-87)

### **Sec. 8-11. Severability.**

The City Council hereby declares that should any section, paragraph, sentence or word of this article be declared for any reason to be invalid, it is the intent of the City Council that it would have passed all other portions of this article independent of that portion declared to be invalid, and it is the further intent hereby declared that the remaining portion of this article shall be and remain in full force and effect and subject to full enforcement. (Ord. No. 87-8, 7-1-87)

## **ARTICLE 2. LIFE SAFETY AND FIRE PREVENTION CODES**

### **Sec. 8-101. Title.**

This ordinance shall be incorporated into the Code of the City of Bath as Chapter 8, Fire Prevention, Article 2, Life Safety and Fire Prevention Codes.  
(Ord. No. 87-8, 7-1-87)

### **Sec. 8-102. Standards - Life safety code.**

(a) This article incorporates by reference chapters 1 through 32 and appendices A through G of the Code for Safety to Life From Fire in Buildings and Structures, NFPA 101, 1985 edition.

(b) Outdoor Wood Boilers and Outdoor Furnaces

(1) Purpose

Studies have been done indicating that outdoor furnaces and outdoor wood boilers pose environmental and health risks well beyond any public or private benefit. The smoke from these heating devices cause noxious, offensive odors and the emissions are detrimental to the public health. The purpose of this Section is to prohibit the use, construction, maintenance, or operation of outdoor furnaces and outdoor wood boilers in the City of Bath.

(2) Outdoor furnaces and outdoor wood boilers prohibited

The use, construction, maintenance, or operation of an outdoor furnace or outdoor wood boiler, other than those legally in existence and operation as of January 23, 2007, is prohibited in the City of Bath.

(3) Outdoor furnaces or outdoor wood boilers defined

“Outdoor furnace” or “outdoor wood boiler” means any equipment, device, or apparatus, or any part thereof, which is installed, affixed, or situated outdoors, for the purpose of combustion of solid fuel to produce heat or energy.

This Ordinance to be reviewed by City Council on or before March 1, 2008.  
(Ord. No. 87-8, 7-1-87, 3-7-07)

**Sec. 8-103. Same-Fire Prevention Code.**

This article further incorporates by reference Sections F-100.1 through F-3600.6.3 and appendix A of the BOCA National Fire Prevention Code, 1987 , except for the following revisions:

***Section F-100.3, Alternate Methods and Materials:*** Add the following:

The consideration of alternative methods and materials under this Article may, consistent with safety, include the factor of building age, environment, as-built conditions, historic integrity and effective utilization.

***Section F-102.2, Inspections:*** Shall read as follows:

The fire official shall inspect and shall have access for the purpose of inspecting all structures and premises, except any occupied single-family dwelling, as often as may be necessary for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with fire fighting operations, endanger life or any violations of the provisions or intent of this code, or any other ordinance affecting fire safety.

***Section F-104. Appeals:*** This section shall be eliminated and replaced by Section 8-104 hereunder.

**Section F-308.1, General:** Add the following:

None of the foregoing, however, shall preclude a dual hook-up within the same flue of an oil-fire heating apparatus, and wood-fired heating apparatus as is permitted pursuant to the State of Maine Fire Marshall's Regulation V.S.211.

**Section F-313.1, Designation:** Amend to read as follows:

The Bath City Council by ordinance may require and designate public or private fire lanes as deemed necessary for the efficient and effective use of fire apparatus.

**Section F-1700.3, Place of Assembly:** Amend to read as follows:

A place of assembly shall be a room or space accommodating the gathering of individuals for religious, recreational, educational, political, social or amusement purposes, or for the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. (Ord. No. 87-8, 7-1-87)

## **Sec. 8-104. Appeals.**

(a) Any owner, lessee, operator, agent or occupant aggrieved by any order pursuant to this article may file an appeal in writing with the Zoning Board of Appeals within ten (10) days from the service of such order. The Zoning Board of Appeals shall fix the time and place, not less than seven (7) days nor more than fourteen (14) days after receipt of the appeal, stating when and where such appeal shall be heard. No enforcement action may be taken on the basis of the expiration of any time period in any such order, until hearing before the zoning board of appeals, and the rendering of a decision on the appeal, unless a distinct hazard exists which requires immediate remedial action.

(b) The zoning board of appeals at such hearing may affirm, modify, revoke or vacate such order. Unless revoked or vacated, such order as affirmed or modified shall then be complied with.

(c) In dealing with appeals pursuant to this section, the zoning board of appeals will be governed by its procedures and proceedings as designated in Chapter 18 of this Code. (Ord. No. 87-8, 7-1-87)

## **Sec. 8-105. Penalties.**

Any person who fails to comply with the provisions of this article or with an order of the codes enforcement officer issued pursuant to said article, and from which no appeal has been taken, or with such order as affirmed or modified by the zoning board of appeals or court of competent jurisdiction, within the time limit fixed within said order, shall be guilty of a civil violation, and shall be subject to payment of a fine of up to one hundred dollars (\$100.00), with each day of such violation constituting a separate and distinct offense, any such monies ordered paid to the order of the City of Bath. Nothing herein shall further prevent the codes enforcement officer or other city official from seeking injunctive relief to compel compliance with any lawful order issued pursuant to this section. Such penalty shall not limit the authority of the city to seek abatement of a violation through procedures under Rule 80K or other applicable enforcement methods. (Ord. No. 87-8, 7-1-87)

**Sec. 8-106. Repeal of conflicting ordinances.**

All former ordinances or parts thereof conflicting with the provisions of this article are hereby repealed.

(Ord. No. 87-8, 7-1-87)

**Sec. 8-107. Severability.**

The City Council hereby declares that should any section, paragraph, sentence or word of this article be declared for any reason to be invalid, it is the intent of the City Council that it would have passed all other portions of this article independent of that portion declared to be invalid, and it is the further intent hereby declared that the remaining portion of this article shall be and remain in full force and effect and subject to full enforcement. (Ord. No. 87-8, 7-1-87)

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## ARTICLE I

### Statement of Policy

The Municipality of \_\_\_\_\_ administers a program of general assistance (GA) available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided within this ordinance, Department of Health and Human Services (DHHS) GA policy and in 22 M.R.S.A. § 4301 et seq.

Every effort will be made to recognize the dignity of the applicant while encouraging self-reliance. The program will strive to help eligible persons achieve self-maintenance by promoting the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services. The general assistance program will place no unreasonable restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on sex, age, race, nationality, religion, sexual orientation or disability. The municipality is committed to including qualified individuals with disabilities in municipal services, programs, and activities. As a result, the municipality will promote a GA program that when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. GA applicants with physical or mental disabilities that require a reasonable accommodation in order to access and/or utilize the municipal GA program are encouraged to provide the municipality with advance notice regarding the accommodation request.

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. GA applicants will be provided information regarding their rights and responsibilities under the GA program. Within 24 hours ~~after~~ receipt ~~ving of~~ an application, the administrator will provide the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also provide the applicant written notice that the applicant may appeal to the municipal fair hearing authority if dissatisfied with the decision. When an

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any commingling of funds or sharing of income or expenses. Municipalities may by ordinance establish as a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumed pooling of income.

**Real Estate.** Any land, buildings, homes, mobile homes and any other things affixed to the land (22 M.R.S.A. § 4301(13)).

**Recipient.** A person who has applied for and is currently receiving general assistance.

**Registered Domestic Partner.** An individual registered as the domestic partner of the applicant pursuant to 22 M.R.S.A. § 2710.

**Repeat Applicants.** All applicants for general assistance that are not initial applicants are repeat applicants. For purposes of this ordinance repeat and subsequent shall have the same meaning.

**Resident.** A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence. A person who applies for assistance in a municipality who is not a resident of that municipality or any other municipality is the responsibility of the municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he/she is eligible, until he/she establishes a new residence in another municipality (22 M.R.S.A. § 4307).

**Resources.** Resources include any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources: "available" and "potential". Potential resources are programs, services, non-liquid assets, or trusts that typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released.





## ARTICLE III

### Administrative Rules and Regulations

The following are rules and regulations for the administration of general assistance.

#### Section 3.1—Confidentiality of Information

Case records and all other information relating to an applicant or recipient of general assistance are confidential and will not be disclosed to the general public, unless the applicant or recipient states in writing what information is to be released (22 M.R.S.A. § 4306).

**Release of Information.** Applicants, recipients and their legal representatives have the right to review their case records. No record will be released to a third party, however, unless the administrator receives a consent form signed by the applicant expressly authorizing the release of his or her records to the specified parties. Whenever the administrator releases any information, he/she will make a notation in the applicant's file stating to whom the record was released and the date. The administrator may charge a reasonable fee for the reproduction of any records when appropriate.

**Information from Other Sources; Penalty.** Information furnished to the municipality by the Department of Health and Human Services or any other agency or institution pursuant to 22 M.R.S.A. § 4314, is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of vital statistic records such as those concerning birth, marriage and death. (22 M.R.S.A. § 2706).

Any representative of a financial institution (~~except national banks~~) or any employer of a general assistance applicant who, upon receipt of a written release signed by the depositor and a written request from the Administrator, refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Effective November 1, 2017 national banks are also obligated to disclose deposit information to the Administrator upon receipt of a written

request and release signed by the depositor. Additionally, effective November 1, 2017, when a municipality or its agents are acting in accordance with section 4313(2) to verify eligibility for funeral or cremation benefits, an officer of a financial institution must disclose the amount deposited upon receipt of a written request from the municipality or its agents and a notarized affidavit signed by the overseer of the municipality or its agents stating that the named depositor is deceased. Any such person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than \$25 nor more than \$100. Any person, including the applicant, who knowingly and willfully makes a false representation of a material fact to the administrator is committing a Class E crime (22 M.R.S.A. § § 4314, 4315).

**Misuse of Information.** Misuse of any information relating to an applicant or recipient is a punishable offense (22 M.R.S.A. § 42(2)).

### Section 3.2—Maintenance of Records

The general assistance administrator will keep complete and accurate general assistance records (22 M.R.S.A. § 4306). These records are necessary to:

- a) provide a valid basis of accounting for municipal expenditures;
- b) document and support decisions concerning an applicant or recipient; and
- c) ensure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the general assistance administrator.

**Case Records.** The administrator will establish and maintain a separate case record, either in paper format or digital format for each applicant or recipient. Each case record will include at least:

- household applications
- budget sheets
- information concerning the types and amounts of assistance provided

assistance within 30 days of being discharged from the hospital and provide a notice from the hospital certifying that he or she is ~~they-re~~ not eligible for the hospital's free care program.

Before the administrator will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant's eligibility, the municipality will budget the monthly payment to the hospital the applicant has agreed to pay. The applicant's need for assistance with a hospital bill will be considered each time he/she applies by including the amount of the bill in the applicant's monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of-income requirements found at section 6.6 of this ordinance.

- 4) **Dental.** The municipality will pay for medically necessary dental services only. As is the case with medical services generally, the municipality will issue general assistance for dental services at the established Medicaid rates for those services, and before authorizing the general assistance benefit for dental services, the administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate. If full mouth extractions are necessary, the municipality will pay for dentures provided the applicant has no other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.
- 5) **Eye Care.** In order to be eligible to receive general assistance for eyeglasses, an applicant must have his or her medical need certified by a person licensed to practice optometry. The general assistance administrator will provide





burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to make a good-faith effort to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses, and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact to the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.

**Application for Assistance Shall be Calculated on Behalf of the Deceased.** For the purposes of determining residency, calculating eligibility and issuing general assistance for burial or cremation purposes, an application for assistance shall be completed by the administrator on behalf of the deceased.

With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death as residency is determined under section 4.10 of this ordinance.

Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will not be construed as an application for general assistance inasmuch as living persons are not eligible for burial assistance. To clarify this point of law, although legally liable relatives have a financial responsibility to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent the legally liable relatives have a financial capacity to do so. Therefore, legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligation to pay for the burial or cremation of their relatives. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

**The Financial Responsibility of Certain Family Members.** [Through October 31, 2017,](#)  
Grandparents, parents, children and grandchildren of the deceased, who live in Maine

or own property in Maine, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Effective November 1, 2017, grandparents, parents, children and grandchildren of the deceased whether or not living in or owning property in Maine, and the spouse or registered domestic partner of the deceased, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator with any reasonably requested information regarding their income, assets, and basic living expenses. The Administrator may also seek information from financial institutions holding assets of the deceased. Effective November 1, 2017, Maine law requires a financial institution to disclose the amount deposited in the corporation or association when the municipality or its agents are acting in accordance with section 4313(2) and provide a written request and a notarized affidavit signed by the overseer of the municipality or its agents stating that the named depositor is deceased.

**Consideration of the Financial Responsibility of Family Members.** Generally, when the administrator can make a finding that one or more of the deceased's legally liable relatives have an obvious and demonstrable financial capacity to pay for the burial or cremation, by lump sum payment or by means of a reasonable payment arrangement, the municipality will not grant the requested burial or cremation assistance. When the administrator is unable to make such a finding, the following proration of familial responsibility will be implemented.

**Proration of Familial Responsibility.** A proration of familial financial responsibility will be used when no legally liable relative possesses an obvious and demonstrable capacity to pay for the burial or cremation, but one or more of the financially liable relatives is found



signature. The municipality shall also send a photocopy of that filing to the recipient's Worker's Compensation attorney, if known, the applicant's employer or the employer's insurance company, and, at the administrator's discretion, to the Workers' Compensation Board. The lien shall be enforced at the time any lump sum Workers' Compensation benefit is issued.

**Recipients of SSI.** All applicants who receive general assistance while receipt of their Supplemental Security Income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an Interim Assistance Agreement form distributed by the DHHS that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S.A. § 4317, and who refuses to sign the Interim Agreement SSI authorization form will be found ineligible to receive general assistance until he or she provides the required signature (22 M.R.S.A. § 4318).

**Relatives.** The spouse of an applicant, and the parents of any applicant under the age of 25, are liable for the support of the applicant (22 M.R.S.A. § 4319). In addition, the grandchildren, children, parents, ~~and~~ grandparents, and effective November 1, 2017, the spouse and a registered domestic partner, are liable for the burial costs of each other. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility (22 M.R.S.A. § 4319).





# GENERAL ASSISTANCE ORDINANCE

2017-2018

Ordinance: Chapter 8A. General Assistance Maximums for October 1, 2017 to September 30, 2018 (first passage)

## ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE CODE OF THE CITY OF BATH, ADOPTED FEBRUARY 2, 1977, AND SUBSEQUENTLY AMENDED, BE FURTHER AMENDED AS FOLLOWS:

### CHAPTER 8A. GENERAL ASSISTANCE

Amend the City's General Assistance Ordinance in accordance with the amended portions attached hereto. Deletion's are shown in red (or crossed out), addition's are shown in blue (or underlined.)

Also delete appendices to the ordinance dealing with maximums allowances and adopt the MMA Model Ordinance GA Appendices (A-D) for the period of Oct. 1, 2017 - September 30, 2018. These appendices are filed with the Department of Health and Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the 8<sup>th</sup> (day) of November (month) 2017 (year)  
by the municipal officers:

Mari Eosco  
(Print Name)

[Signature]  
(Signature)

James A Ono  
(Print Name)

[Signature]  
(Signature)

Aaron Park  
(Print Name)

[Signature]  
(Signature)

Susan Bauer  
(Print Name)

[Signature]  
(Signature)

First Passage  
CITY OF BATH MAINE  
IN CITY COUNCIL  
October 4, 2017  
RECEIVED READ AND ACCEPT  
☐ TABLED ☒ GRANTED ☒ PASSED ☐ FAILED  
REFERRED TO  
ATTEST [Signature]  
CITY CLERK

David J. Comeau  
(Print Name)

[Signature]  
(Signature)

Sean C. Paulhus  
(Print Name)

[Signature]  
(Signature)

Second Passage  
CITY OF BATH MAINE  
IN CITY COUNCIL  
November 8, 2017  
RECEIVED READ AND ACCEPT  
☐ TABLED ☒ GRANTED ☒ PASSED ☐ FAILED  
REFERRED TO  
ATTEST [Signature]  
CITY CLERK

Bernard Wyman  
(Print Name)

[Signature]  
(Signature)

Terry Nordmann  
(Print Name)

[Signature]  
(Signature)

[Signature]  
(Print Name)

GREG PAGE  
(Signature)



**CHAPTER 10  
PUBLIC SAFETY**

Updated 12/2014\*12/2016\*\*

**ARTICLE 1. WEAPONS**

- § 10.01 Sale and Possession of Weapons, Definition.
- § 10.02 Discharging Firearms and Other Dangerous Weapons.
- § 10.03 Penalties.

**\*ARTICLE 2. OPERATION OF VESSELS –  
REPLACED w/HARBOR ORDINANCE -16 (12-17-2014)**

**ARTICLE 3. SKATEBOARDS.**

- § 10.301 Purpose
- § 10-302 Prohibited Area.
- § 10-303 Use and Operation.
- § 10-304 Penalties

**\*\*ARTICLE 4. TOBACCO-FREE PARKS AND RECREATION FACILITIES**

- § 10-401 Title
- § 10-402 Purpose
- § 10-403 Definitions
- § 10-404 Tobacco Product Use Prohibited
- § 10-405 Signage
- § 10-406 Privately Owned Property
- § 10-407 Enforcement
- § 10-408 Penalties

**ARTICLE 5. RESERVED**

**ARTICLE 6. ALARM SYSTEM ORDINANCE**

- § 10.62. Purpose and Definitions
- § 10.63. Permit Required
- § 10.64. Application for Permit
- § 10.65. Terms of Permit
- § 10.66. Certain Information Confidential
- § 10-67. Installation Guidelines

CHAPTER 10  
PUBLIC SAFETY

- § 10.68. Application Approved
- § 10.69. Revocation of Permit
- § 10.70. Certain Systems Prohibited
- § 10.71. Audible Alarm Systems
- § 10.72. No Liability of City or Others
- § 10.73. False Alarm Service Fees
- § 10.74. Penalty
- § 10.75. Grace Period
- § 10.76. Severability

**ARTICLE 7. FIREWORKS**

- § 10.701. Sale and Use of Consumer Fireworks.

**CHAPTER 10  
PUBLIC SAFETY**

**ARTICLE 1. WEAPONS**

**Section 10.01. Sale and Possession of Weapons, Definition**

(A) **Sale.** No person shall sell, rent or lease any weapon to any person under the age of sixteen (16) years.

(B) **Possession.** No person under the age of ten (10) years shall have in their possession any weapon. Persons between the age of ten (10) and sixteen (16) **may** have a weapon in their possession within the limits of the City Provided they are accompanied at all times by a parent or guardian.

(C) **Weapon.** Weapon shall be defined as any firearm, rifle, air gun, BB gun or any other gun projecting lead or any missiles, sling shot, bow and arrow, or any device that shoots dangerous projectiles.

**Section 10.02. Discharging Firearms and Other Dangerous Weapons.**

(A) Unlawful Discharge. It shall be unlawful to discharge any weapon within the City compact limits as defined by the Maine Department of Transportation.

(B) Exemptions. This Section shall not apply to the following circumstances:

- (1) Any officer of the law discharging a firearm in the performance of his duty.
- (2) Any citizen discharging a firearm when lawfully defending their life and/or personal property.
- (3) Any citizen lawfully hunting under the laws of the State of Maine. All hunting allowed within the corporate limits of the City of Bath, Maine, shall be by smooth bore firearm only, or by bow and arrow. The use of rifled barrels on a shotgun frame, or any other weapon which is designed for, and/or used for hunting which has a rifled barrel is prohibited.  
(6/30/93)
- (4) Tools normally used in construction trades by qualified tradesmen.

- (5) Public ceremonial occasions using non-lethal ammunition (blanks).

### **Section 10.03. Penalties**

A person who violates any of the provisions of this Chapter, in addition to any penalties under State Law, shall be punished by a fine of not more than One Hundred Dollars (\$100.00). All penalties assessed under this Article shall be to the use and benefit of the City of Bath.

## **ARTICLE 2 OPERATION OF VESSELS REPLACED WITH CHAPTER 16 – HARBOR ORDINANCE 12-17-2014**

## **ARTICLE 3 SKATEBOARD ORDINANCE**

### **Section 10-301. Purpose**

The purpose of this Ordinance is to regulate the use of skateboards within the City of Bath.

### **Section 10-302. Prohibited Area. (6/04/03)**

The use of skateboards shall be prohibited in the following areas:

- (a) Downtown Area bounded as follows:

On the south by Vine Street;  
On the east by Commercial Street Including the City Waterfront Park;  
On the north by Linden Street;  
On the west by Washington Street;

(b) The Edward J. McMann Outdoor Recreation Area including Kelley Field – McMann Field – Tainter Field – Legion Field – Tennis and Basketball Complex and all parking areas and access roads.

### **Section 10-303. Use and Operation.**

It is recognized that a skateboard is not classified as a vehicle. As such, it is required to



yield the right of way to all motor vehicles, bicycles and pedestrians lawfully on the public way or sidewalk. Use and operation of a skateboard shall be subject to the following:

(a) Use and operation on a public way shall not obstruct or interfere with the use of the way by traffic or pedestrians.

(b) Use and operation on sidewalk areas and areas frequented by pedestrian traffic shall be in a manner not to interfere with, obstruct or endanger pedestrians.

(c) Use and operation shall not be permitted on private property without the consent of the property owner or person occupying the property.

(d) Use and operation shall not interfere with the use and enjoyment of any property, public or private, in any manner whatsoever.

(e) No skateboard may be used or operated in a manner which endangers the safety or well-being of any individual, including the user, nor shall use and operation be allowed which damages or poses a threat to damage property.

#### **Section 10.304. Penalties.**

Penalties for violations of Sections 2 and 3 above shall be as follows: (6/04/03)

(a) On the occasion of the first violation, the individual violator will be issued a written warning which shall contain the name and address of the violator, the nature of the violation, the location of the violation, and the officer or complaining witness who observed the violation. A copy of the notice of violation shall be sent to the parents, guardian, or adult responsible for the individual violator.

(b) On the second and subsequent violations, the skateboard shall be immediately confiscated by the police officer. A written notice of confiscation will be provided to the violator and a copy sent to the individual violator's parents, guardian, or adult responsible for that individual. The notice will contain all of those items listed in the warning notice in subparagraph (a) above and will contain a request that the parent, guardian, or responsible adult contact the officer issuing the confiscation notice to arrange for a time for a conference with the parent, guardian, or responsible adult, the individual violator, and the officer issuing the confiscation notice, to discuss the violation. Subsequent to that conference, the skateboard will be returned.

**ARTICLE 4. TOBACCO-FREE PARKS AND RECREATION FACILITIES  
(7-3-2013/12-7-2016)**

**Section 10.401. Title.**

This article shall be known as the “City of Bath Tobacco-Free Parks and Recreation Facilities Ordinance.”

**Section 10.402. Purpose.**

This ordinance is enacted to protect, preserve, and promote the health, safety and welfare of the residents and visitors that use the City of Bath’s parks and outdoor recreation facilities. The purpose of this ordinance is to decrease exposure of individuals, and children in particular, to secondhand smoke or vapor and the associated detritus from the use of tobacco products, and/or vaping products and electronic nicotine delivery devices, as defined below.

**Section 10.403. Definitions.**

*Tobacco products* means cigarettes, cigars, pipes, snuff, dip, chewing tobacco, weed, plant, and any other forms of tobacco, prepared in such a manner as to be suitable for chewing or smoking, or both for chewing and smoking.

*Vaping products* means an electronic nicotine delivery device intended to mimic tobacco and containing tobacco flavoring or delivering nicotine including, but not limited to, electronic nicotine delivery systems, e-cigarettes, e-cigars, e-hookahs, vape pen, or any other product name or description and includes any battery operated devices that are used to inhale a vaporized liquid solution that frequently contains nicotine and also contains additional ingredients that are suspected of being harmful to humans. This product does not include products specifically approved by the US Food and Drug Administration (FDA) for the purpose of cessation or nicotine replacement therapy. (12-7-2016)

**Section 10.404. Tobacco Product Use Prohibited.**

It shall be unlawful for any person to use tobacco products, or vaping products at any time, at or within twenty five (25) feet of all parks and outdoor recreation facilities owned and/or maintained by the City of Bath, including, but not limited to, the following:

Library Park  
Waterfront Park  
South End Park  
All City Boat Launch Facilities  
All City Trails and/or Easements  
McMann Field Complex, inclusive of all Facilities, Track, Tennis/Basketball Courts, and Fields  
Donnie Small Athletic Complex  
Varnum Field

There will be no designated areas in the aforementioned properties allocated for use of tobacco products.

**Section 10.405. Signage.**

The Parks and Recreation Department shall post signage notifying the public of the prohibition of tobacco product use at or near the parks and outdoor recreation facilities specified herein, as well as such other locations that, in its sole discretion, the Parks and Recreation Department deems necessary.

**Section 10.406. Privately Owned Property.**

Nothing in this ordinance shall prohibit smoking on privately owned property.

**Section 10.407. Enforcement.**

The City of Bath Police Department shall investigate and enforce the provisions contained in this ordinance. Nothing in this ordinance shall prevent the enforcement agent from obtaining voluntary compliance by way of warning, notice or education.

**Section 10.408. Penalties.**

Any person in violation of any provision of this ordinance shall be subject to a civil penalty and upon adjudication thereof shall be fined in the amount of one hundred dollars (\$100.00) for the first offense; two hundred fifty dollars (\$250.00) for a second offense; and five hundred (\$500.00) for each violation thereafter.

**ARTICLE 5. Reserved**

**ARTICLE 6. Alarm System**

**Section 10-62. Purpose and Definitions**

The purpose of this ordinance is to regulate police response to alarm systems as necessary for the promotion of the public health, safety, and welfare. This ordinance recognizes the need for regulation of the installation and use of alarm systems in order to assure compatibility of equipment with the facilities of the Bath Police headquarters, to avoid the use of improper equipment, to assure adequate installation of equipment, to minimize false alarms, to provide a structure of service fees for false alarms, and to minimize other interference with the orderly conduct of the City's emergency services.

The following definitions shall apply to this ordinance:

**Alarm System:** Any mechanism or device designed for the detection of unauthorized entry upon property and when activated emits an audible, visual, telephonic, electronic or other signal.

**False Alarm:** False alarm is defined as any alarm signal which is not in response to an actual or attempted unauthorized entry upon property requiring an immediate Police response. "False Alarm" includes signals emitted by a negligently activated alarm system, or by an alarm system deliberately activated when an immediate Police response is not required, or by a malfunctioning alarm system. However, "False Alarm" does not include signals emitted by an alarm system activated by unusually severe weather conditions or other causes beyond the control of the alarm user. It shall be the burden of the alarm user to demonstrate to the satisfaction of the Chief of Police that an alarm signal was the result of such extraordinary cause.

#### **Section 10-63. Permit Required.**

No person shall install or operate an alarm system which automatically transmits a signal, message, or warning to the Bath Police Department without first obtaining a permit.

#### **Section 10-64. Application for Permit.**

An application for a permit to install, maintain, or operate an alarm system must be filed with the Bath Police Department on a form provided by the Department including but not limited to the name, address, and telephone number of the installer of the system, the owner of the premises on which the system will be installed and the lessee, if any, and a brief description of the system and the location it is to be installed.

All new applications for permits shall pay a one-time fee of **\$5.00** which is not refundable.

#### **Section 10-65. Terms of Permit**

The permit to install and operate an alarm system is valid for a period of five years from the date of approval, unless terminated at the request of the holder or revoked as provided in this ordinance. The permit may be renewed without charge at the request of the holder upon expiration. A permit issued under this ordinance may not be transferred to another person or property.

#### **Section 10-66. Certain Information Confidential.**

All information provided by the permit holder related to the type and location of the

alarm system shall be confidential.

#### **Section 10-67. Installation Guidelines.**

The Chief of Police may adopt necessary guidelines for the proper installation of equipment intended to connect an alarm system within the Bath Police Department headquarters.

#### **Section 10-68. Application Approved.**

The Chief of Police shall approve an application for a permit if he finds that the use of the alarm system will not interfere with the orderly conduct of City business and that the owner of the system agrees to adequately maintain it in order to assure its proper functioning and that the proposed system and method of installation are proper.

#### **Section 10-69. Revocation of Permit.**

The Chief of Police shall revoke any permit, after reasonable written notice to the permit holder and an opportunity to be heard, if he determines that the alarm system has been installed, maintained, or operated in violation of this ordinance, or that any condition of the permit has been violated or if the permit holder has failed to pay any service fee required, or to pay a fine within 30 days after written notice that such a fee or fine is payable.

#### **Section 10-70. Certain Systems Prohibited**

As of the effective date of this ordinance no person shall install, cause to be installed, operate, or maintain a telephonic (dialing alarm) which automatically transmits a signal, message or warning to the Bath Police Department or Bath Fire Department's telephone lines, except to such telephone number or numbers as designated by the permit. The cost of telephone lines for this purpose shall be paid by the permit holder.

#### **Section 10-71. Audible Alarm Systems**

No alarm user shall maintain any audible alarm system which sounds for more than fifteen (15) minutes when activated. However, in the case of any existing alarm system which in fact sounds for more than fifteen (15) minutes when activated the alarm user or a designee shall respond within one hour of police notice to deactivate the system.

#### **Section 10-72. No Liability of City or Others**

Notwithstanding the payment of any fee or the issuance of any permit under this

ordinance, the City of Bath is under no obligation whatsoever concerning the adequate operation, or maintenance of the alarm device so installed. The City of Bath, its agents, and its employees assume no liability whatsoever for any failure of such an alarm device or for the failure to respond to any such alarm, by any act of omission or commission. This ordinance shall not operate as a waiver of protection afforded the City under the Maine Tort Claims Act.

### **Section 10-73. False Alarm Service Fees.**

Penalties: Any residence, business, or institution that are alarm users, who cause the transmission of a false alarm to the Bath Police Department either telephonically, outside audible, or through panel monitoring, shall pay a service fee of \$25.00 for each false alarm beyond a limit of four (4) in a calendar year.

### **Section 10-74. Penalty**

Any person or organization who violates any provision of this ordinance shall be punished by a fine of not more than \$100.00.

### **Section 10-75. Grace Period**

Alarm users will be exempt from penalties listed in ordinance for false alarms emitted from an alarm system within the first thirty (30) days from the date of its installation.

### **Section 10-76. Severability**

If any provision of this ordinance is found to be invalid for any reason, the remaining provisions shall remain valid.

## **ARTICLE 7. Fireworks (1/4/2012)**

### **Section 10-701. Sale and Use of Consumer Fireworks.**

- (a) *Definitions.* The following definitions shall apply in this section:
  - (1) *Consumer fireworks* shall have the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provisions, but includes only products that are tested and certified by a 3<sup>rd</sup>-party testing laboratory as conforming with United States Consumer Product Safety Commission standards in accordance with 15 United State Code, Chapter 47. “Consumer fireworks” does not include the following products:

- a. Missile-type rockets, as defined by the State Fire Marshal by rule;
  - b. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule;  
and
  - c. Sky rockets and bottle rockets. For purposes of this paragraph, “sky rockets and bottle rockets” means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability, that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.
- (2) *Person* shall mean any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other organization.
- (3) *Display* means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects.
- (b) *Prohibition.* The use, discharge, ignition, sale, or offer for sale, of consumer fireworks in the City of Bath is prohibited.\*
- (c) *Exception.* This section does not apply to a person issued a fireworks display permit by the City of Bath and/or the State of Maine pursuant to 8 M.R.S.A. § 227-A.
- (d) *Penalties.*
- (1) Any person who uses, discharges or ignites consumer fireworks in the City of Bath shall be punished by a penalty of not less than two hundred dollars (\$200.00) and not more than four hundred dollars (\$400.00) plus costs. For second and subsequent offenses, a penalty of not less than three hundred dollars (\$300.00) and not more than six hundred dollars (\$600.00) per violation plus costs shall be imposed.
- (2) Any person who sells or offers for sale consumer fireworks in the City of Bath shall be punished by a penalty of not less than five hundred dollars (\$500.00) plus costs. For second and subsequent offenses, a penalty of not less than one thousand dollars (\$1,000.00) per violation plus costs shall be imposed.



- (3) Any penalty assessed under this Ordinance shall inure to the benefit of the City of Bath. In addition to any penalty, the City shall also recover any costs of prosecution of a violation of this Ordinance, including its reasonable attorney's fees.
- (e) *Seizure and disposal of fireworks.* The City may seize consumer fireworks that the City has probable cause to believe are used, offered for sale or sold in violation of this section. Upon conviction of the person from whom the fireworks were seized of violating this section with respect to those fireworks, the fireworks shall be forfeited to the City. Upon forfeiture, seized fireworks shall be forwarded to the State for disposal.

\* Editor's note: State law prohibits the sale and possession of all fireworks, with the exception of consumer fireworks, see 8 M.R.S.A. § 223. By prohibiting the sale and use of consumer fireworks, the City is effectively prohibiting the use of all fireworks in the City of Bath.

## **CHAPTER 11.**

### **REGULATIONS REGARDING RECREATION AREAS**

#### **§ 11.01 Recreation Areas - Prohibited Activities**

- a. Destroying or Removal of Recreation Property**
  - b. Construction Prohibited**
  - c. Injuring of Trees and Vegetation;  
Attachment to Trees**
  - d. Depositing Trash - Use of Receptacles**
  - e. Camping Prohibited**
  - f. Fires and Fireworks Prohibited**
  - g. Disorderly Conduct Prohibited**
  - h. Illegal Drugs Prohibited**
  - i. Closing Hours**
  - j. Alcoholic Beverages**
  - k. Firearms**
  - l. Dogs**
  - m. Stones and Missiles**
  - n. Bills and Notices Prohibited**

#### **§ 11.02 Penalties**

#### **§ 11.03 School Playground Areas**

## CHAPTER 11

### REGULATIONS REGARDING RECREATION AREAS

#### Section 11-01. Recreation Areas-Prohibited Activities.

The following shall be prohibited activities in all designated City recreation areas:

a. Destroying or Removal of Recreation Property. No person shall willfully mark, deface, disfigure, injure, tamper with, or displace or remove any structure, table, bench, paving or paving material, water lines, public utility or any part or appurtenance to a public utility, sign, notice or placard, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, any equipment, recreational facility or other property or appurtenance whatsoever, whether said property is real or personal. No person shall dig or remove any sand or soil, whether submerged or not, or any rock, stones, trees, shrubs or plants by any means or agency whatsoever.

b. Construction Prohibited. No person shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such land except upon written permission granted by order of the City Council.

c. Injuring of Trees and Vegetation; Attachment to Trees. No person shall damage, cut, carve, transplant or remove any tree or plant or injure the bark or pick the flowers or seeds of any tree or plant or dig in or otherwise disturb grass areas or in any other way injure or impair the natural beauty, usefulness or utility of the area. No person shall attach any rope, wire or other contrivance to any tree, plant, structure, facility or equipment.

d. Depositing Trash - Use of Receptacles. No person shall bring in, dump, deposit, throw, discharge, leave or otherwise place any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse or any other trash upon any recreational facility. No refuse or trash shall be placed in any waters or left anywhere on the grounds but shall be placed in proper receptacles where such receptacles are provided. Where receptacles are not so provided, all such rubbish or waste shall be carried away from the recreational facility by the person responsible for its presents, and properly disposed of elsewhere,

e. Camping Prohibited. No person shall set up any tent, shack or any other temporary shelter for the purpose of overnight camping, or leave in any park or in any recreational facility area any movable structure or special vehicle to be used or that could be used for such purpose, such as a house trailers, camp trailer, camp wagon or any other structure or vehicle of like nature.

f. Fires and Fireworks Prohibited. No person shall bring or have in his possession or set off

or otherwise cause to explode, discharge or burn any firecrackers, torpedo, rocket or other fireworks or explosives or inflammable material onto any recreational facility area nor shall any person discharge them or throw them into any such recreational area from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with any substance or compound would be dangerous from any of the foregoing standpoints. No person shall build or attempt to build a fire upon property designated as a recreation area.

g. Disorderly Conduct Prohibited. No person shall engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in disorderly conduct or behavior tending to be a breach of the peace in any designated recreational area.

h. Illegal Drugs Prohibited. No person in a designated recreational area shall **be** in possession of or use any illicit, illegal or scheduled drugs, as defined under the Laws of the state of Maine or the Laws of the United States of America.

i. Closing Hours. The hours of operation of designated recreational areas shall be determined by the Recreation commission and posted as to give reasonable notice to the public as to the hours of operation and closing time of such facility. It shall be a violation of this Section for any person to be in or upon a designated recreational area beyond the posted closing time.

j. Alcoholic Beverages. Alcoholic beverages shall be prohibited from all designated recreational areas and it shall be a violation of this Section to carry onto such designated area or consume on such area any such alcoholic beverage.

k. Firearms. No person shall carry a firearm onto a designated recreational area except for duly authorized law enforcement officials.

l. Dogs. No person shall allow his dog to run at large on any designated recreational area.

m. Stones and Missiles. No person shall throw or cause to be thrown any stone or other missile while located upon a designated recreational area.

n. Bills and Notices Prohibited. No person shall post any bill, notice or any other devise on any tree or structure within a designated recreational area.

(Cross-reference - See Section 17-352 regarding the prohibition of motor bikes and all-terrain vehicles within designated recreational areas.)

## **Section 11-02. Penalties**

Any person convicted of violating any of the prohibitions designated in Section 11.01 shall be subject to a fine not to exceed Two Hundred Dollars (\$200.00) for the first offense and not to exceed Five Hundred Dollars (\$500.00) on any second or subsequent offense, all fines being payable to the City of Bath. These penalties are in addition to any penalties, criminal or civil, which may be imposed for such behavior under applicable State Law.

### **Section 11-03. School Playground Areas**

For purposes of this Chapter, school playground areas shall be defined as the playground area at the Fisher Mitchell School and the playground area at the Dike-Newell School. The prohibitions contained in Section 11.01 above shall apply to those school playground areas with the exception of closure. The school playground area shall be closed, and all persons shall be prohibited from being in such school playground areas, from sunset to sunrise. Persons violating this Section or the prohibitions in Section 11-01 with regard to school playground areas shall be subject to the penalties in Section 11-02. (9-26-90)

## **CHAPTER 12.**

### **PERSONNEL**

#### **Article 1. General Provisions**

- § 12-101. Purpose.
- § 12-102. Nondiscrimination.
- § 12-103. Equal Opportunity.
- § 12-104. Grounds for Rejection or Exclusion.
- § 12-105. Sexual Harassment.
- § 12-106. False Statements.
- § 12-107. Prohibitions.
- § 12-108. Political Activity.
- § 12-109. Secondary Employment.
- § 12-110. Transferring to Another Department.
- § 12-111. Abolishment of Positions.
- § 12-112. Layoffs.
- § 12-113. Re-employment After Layoff.
- § 12-114. Probation.
- § 12-115. Evaluation.
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#### **Article 2. Personnel Service Commission**

- § 12-201. Purpose.
- § 12-202. Appointment.
- § 12-203. Removal.
- § 12-204. Compensation.
- § 12-205. Disqualification for City Positions.
- § 12-206. Organization.
- § 12-207. Duties.

#### **Article 3. Classification of Service.**

- § 12-301. Service Classifications.
- § 12-302. Exempt Service.
- § 12-303. Classified Service.
- § 12-304. Competitive Class.
- § 12-305. Noncompetitive Class.
- § 12-306. Temporary Employment.
- § 12-307. Emergency Employment.

#### **Article 4. Applications, Examinations, and Appointment**

- § 12-401. Qualifications of Applicants.
- § 12-402. Notice of Examination.
- § 12-403. Scope of Examinations.
- § 12-404. Examinations.
- § 12-405. Grading.
- § 12-406. Eligible List; Compilation; Expiration Date.
- § 12-407. Appointment of Police or Fire Chief or Public Works Direction from Existing Department Members.
- § 12-408. Competitive Appointments.
- § 12-409. Non-competitive Appointments.
- § 12-410. Promotion.
- § 12-411. Rejection from Promotional Probationary Appointment; Reinstatement.

#### **Article 5. Disciplinary Action**

- § 12-501. Disciplinary Action.
- § 12-502. Interim Suspension.
- § 12-503. Grounds for Disciplinary Action.
- § 12-504. Appeals.
- § 12-505. Definitions.

#### **Article 6. General Conditions of Employment**

- § 12-601. Scope of Article.
- § 12-602. Hours of Work.
- § 12-603. Attendance at Work.
- § 12-604. Leaves of Absence.
- § 12-605. Holiday Leave.
- § 12-606. Vacation Leave.
- § 12-607. Sick Leave.
- § 12-608. Parental Leave.
- § 12-609. Bereavement Leave.
- § 12-610. Court Leave.
- § 12-611. Reserve Service Leave.
- § 12-612. Injuries Line of Duty.
- § 12-613. Compensation.
- § 12-614. Merit Increases.
- § 12-615. Cost Savings Bonus Plan.
- § 12-616. Insurance.
- § 12-617. Grievance Procedure.



## **PERSONNEL**

### **CHAPTER 12**

#### **ARTICLE 1. GENERAL PROVISIONS**

##### **Sec. 12-101. PURPOSE.**

The purpose of this Chapter is to establish a uniform system of personnel administration for the City of Bath that ensures fair and equitable personnel policy and promotes the efficient and economical delivery of public services.

##### **Sec. 12-102. NONDISCRIMINATION.**

A. In all aspects of the recruitment, application, and employment procedure there shall be no discrimination expressed, promised, or threatened by any person in favor or against an applicant or employee based on an individual's age, race, color, sex, creed, political affiliation, religion, sexual orientation, marital status, ancestry or national origin, or mental or physical handicap that will not interfere with the performance of duty.

B. The operation of City Departments and the activities of City employees are to be in accordance with the intent and spirit of this policy.

##### **Sec. 12-103. EQUAL OPPORTUNITY.**

A. In accordance with the above nondiscriminatory policy, the City shall seek the best qualified person to fill positions at the established salary levels from the available labor force without regard to an applicant's age, race, color, sex, creed, political affiliation, religion, sexual orientation, marital status, ancestry or national origin, or mental or physical handicap that will not interfere with the performance of duty.

B. The search for the best qualified applicants shall be within the limits of time and as wide a search as practical to fill a position.

##### **Sec. 12-104. GROUNDS FOR REJECTION OR EXCLUSION.**

A. No application for employment will be certified from any person:

- (1) Who habitually and excessively consumes intoxicating liquors or illegally uses drugs.
- (2) Who has been convicted of a felony.

(3) Who has been convicted of a crime involving moral turpitude.

B. The Commission may exclude from the examination, refuse to certify as eligible or remove from the eligible list any candidate, upon sufficient evidence of criminal, infamous, dishonest, immoral or bad character or conduct, or who fails to meet the basic requirements, has prior unsatisfactory employment, or otherwise is ineligible for employment.

#### **Sec. 12-105. SEXUAL HARASSMENT.**

A. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that are explicitly or implicitly a term or condition of an individual's employment or are a basis for employment decisions are prohibited.

B. Unwelcome sexual conduct that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment is prohibited.

#### **Sec. 12-106. FALSE STATEMENTS.**

No person shall make any false statement, certificate, mark, rating or report with regard to any test, certification or appointment made under any provision of this Chapter, or in any manner commit or attempt to commit any fraud preventing the impartial execution of this Chapter and the rules promulgated under this Chapter.

#### **Sec. 12-107. PROHIBITIONS.**

A. **BRIBERY.** No person shall directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for, or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in a position in any City department.

B. **POLITICS.** No person **shall** seek or attempt to use any political endorsement in connection with any appointment, disciplinary action, demotion or removal in City employment.

C. **INFLUENCE.** No person shall use or promise to use, directly or indirectly, official authority or influence, whether possessed or anticipated, to secure, for any person, an appointment or advantage in the appointment to a position in any City department, or an increase in pay or other advantage for the purpose of influencing the vote or political action of any person or any consideration.

#### **Sec. 12-108. POLITICAL ACTIVITY.**

A. City employees shall refrain from using influence in any way for or against a candidate for an elective office in the City government.

B. This is not construed to prevent City employees from exercising their rights as private citizens in becoming or continuing to be members of political organizations, expressing views on political matters, or voting with complete freedom in any election.

C. If elected to a political office that is incompatible with duties of employment, the employee shall terminate employment with the City prior to the assumption of said elected office.

#### **Sec. 12-109. SECONDARY EMPLOYMENT.**

A. No employee shall be engaged in additional employment or enterprise that is in conflict with his/her duties, functions and responsibilities with the City. All full-time City employees who engage in secondary employment shall do so only with the understanding and acceptance that their primary duty, obligation and responsibility is to the City.

B. The City shall in no respect be liable for nor grant sick leave or disability leave in the case of any injury or illness incurred by the employee when engaged in secondary employment. The employee also releases the City from any claim or salary wage or other benefits during the absence caused by such injury or illness.

#### **Sec. 12-110. TRANSFERRING TO ANOTHER DEPARTMENT.**

A. Any employee transferring to another City department position under the cognizance of the Personnel Service Commission shall give two (2) weeks notice in writing, and secure the release from the head of the department from which he/she is separating.

B. Upon presentation of the release to the Commission they shall place the employee's name on the eligible list of the other department, if the employee has been examined and found to be qualified.

C. Upon transfer of employment from one department to another, the employee gives up all rights and privileges pertaining to the position he/she is vacating and shall be entitled to all benefits existing within the department transferred to, based on years of continuous service to the City.

#### **Sec. 12-111. ABOLISHMENT OF POSITIONS.**

The Council shall have the right to abolish any position at any time, and the abolishment of a position shall automatically constitute the discharge of the employee from that position, but without prejudice. If the same position is recreated within two (2) years the discharged person automatically shall be reemployed, if available and the job description and responsibilities remain unchanged.

#### **Sec. 12-112. LAYOFFS.**

A. Whenever it becomes necessary to reduce the number of employees in a given class, the

appointing authority shall notify the Personnel Service Commission and state the names of the members to be laid off. Layoff decisions shall be made on a basis of seniority, all other things being equal. The authority shall notify the employees, stating the reason for the layoff and whether it is temporary or permanent.

B. A temporary layoff refers to a situation where, due to temporary discontinuation of service or a falling off in the volume of work, it becomes necessary to reduce personnel, but where it is expected that within ninety (90) days the work will be resumed. A temporary layoff shall not exceed ninety (90) days.

C. A permanent layoff means that a situation where, because a service is to be discontinued indefinitely, or where, due to reduced volume of work or revenue, the appointing authority is obliged to layoff an employee or employees indefinitely, and where it is expected that the service will not be resumed within ninety (90) days.

D. When an employee has been laid off on a temporary basis and it is not possible to reemploy him/her within ninety (90) days, the appointing authority shall notify the Commission that the layoff has been changed from a temporary to permanent status.

#### **Sec. 12-113. RE-EMPLOYMENT AFTER LAYOFF.**

A. When the appointing authority proposes to fill a vacancy created by a layoff, either temporary or permanent, or where a position has been abolished and subsequently recreated within two (2) years, the authority shall re-employ the person laid off from the class or position in the reverse order of the layoff; the person laid off last shall be re-employed first.

B. The employee shall have five (5) working days to respond to whether he/she will accept the position. Returning employees shall have fifteen (15) working days from the date of notice to return to work.

#### **Sec. 12-114. PROBATION.**

Upon appointment or promotion, all employees shall be subject to a period of probation. This probationary period shall be for six (6) months; except for police and fire employees, which shall serve a probationary period for one (1) year. However, the City shall have the right to terminate the employment of any new employee during this probationary period without employee recourse.

#### **Sec. 12-115. EVALUATION.**

A. In order to insure the public the highest quality of services, all personnel shall be formally evaluated, in writing, by the employee's immediate supervisor. The supervisor shall conduct these evaluations as frequent as is deemed desirable, however, every employee should be evaluated at least once every year, with the year commencing at the date of initial employment. The supervisor should give the evaluations to the personnel officer, for consideration concerning merit salary

increases.

B. Probationary employees shall be formally evaluated, in writing, at the end of their probationary period by the employee's immediate supervisor. A successful evaluation will result in the employee achieving permanent status.

C. During the evaluation, the supervisor should indicate how the employee can improve his/her performance, by calling attention to training, education and special needs to improve work habits, and ascertain employee recommendations as to methods for greater efficiency and production in pertaining to his/her assigned duties.

#### **Sec. 12-116. TRAINING.**

Both the City and the employees profit from the provision of educational training opportunities at reasonable expense to the City. Training programs shall be selected or designed to improve the quality of the employee's performance and to bring about a more efficient, effective, and economical operation. Training programs which are intended for reimbursement must have prior approval from the City Manager and must be directly related to improvement of required job skills/knowledge. Upon satisfactory completion of the course work with a grade of "C" or above, the employee may file an expense account with the City Manager for prior approved expenses incurred while taking the course.

### **ARTICLE 2. PERSONNEL SERVICE COMMISSION**

#### **Sec. 12-201. PURPOSE.**

The purpose of the Personnel Service Commission is to establish a system of personnel administration based on competition and merit principles so as to promote efficient personnel practices in the public interests and to prevent unlawful discrimination in City personnel administration.

#### **Sec. 12-202. APPOINTMENT.**

A. **APPOINTMENT.** The three members of the Personnel Service Commission shall be appointed by the City Council to serve a term of three (3) years until their term expires and a successor is appointed and qualified. The term of office shall expire on December 31. Members shall be appointed so that their terms of office expire one each year.

B. **FILLING VACANCY.** In case of any vacancy in the Personnel Service Commission, the Council shall appoint a registered voter of the City not holding City office or employment to serve as Commissioner for the unexpired term.

C. **OATH REQUIRED.** Each member of the Personnel Service Commission shall qualify after his/her appointment by being sworn to the faithful discharge of his/her duties by the City Clerk, or by a Justice of the Peace or Notary Public. In the event that a member qualified

before a Justice of the Peace or Notary Public, a certificate thereof shall be filed by the Justice or Notary with the Clerk.

**Sec. 12-203. REMOVAL.**

- A. Acting in the public interest, the Council may remove any Commissioner from office after notice and an opportunity for the Commissioner to be heard are given.
- B. Any member who ceases to be a resident of the City of Bath shall be considered as having automatically resigned from the Commission.

**Sec. 12-204. COMPENSATION.**

- A. **PAY.** Members of the Personnel Service Commission shall serve without pay.
- B. **REIMBURSEMENT.** Members of the Commission shall be reimbursed for all expenses incurred in the direct performance of their duties. All reimbursements will be supported by receipts.
- C. **TRAVEL.** Members of the Commission, who in the performance of their duties are required to travel outside of the City of Bath, will require prior approval of such travel from the City Manager in order to receive reimbursement.

**Sec. 12-205. DISQUALIFICATION FOR CITY POSITIONS.**

No member of the Commission or for a period of one year after ceasing to be a member of the Commission, for any reason, except completion of the term for which appointed, shall be eligible for election or appointment to any full-time staff position in the City of Bath municipal offices or departments. This specifically does not disqualify Commissioners from running for elected office or accepting a position on an appointed board or commission.

**Sec. 12-206. ORGANIZATION.**

A. **CHAIRMAN.** The Personnel Service Commission at the first meeting of each calendar year shall elect one of its members as Chairman of the Commission. The results of the designation shall be forwarded to the City Manager and City Clerk.

B. **MEETINGS.** Meetings may be called at any time by the Chairman of the Commission, City Manager, or two (2) members of the Commission.

C. **QUORUM.** Two members of the Commission shall constitute a quorum for the holding of meetings and hearings.

D. **RULES OF PROCEDURE.** The Commission shall determine its methods of rules

and procedure.

## **Sec. 12-207. DUTIES.**

In addition to the duties imposed upon it elsewhere in this Chapter, it shall be the duty of the Personnel Service Commission:

A. To represent the public interest in the improvement of personnel administration in the departments.

B. To make reports as may be required by the City Manager or Council regarding personnel administration in the departments and recommendations for improvement therein.

C. To make rules and provide for the following:

1. Public competitive examinations.
  2. Public advertisement of open positions.
  3. Creation of lists of eligible candidates after examination, in order of standing in the examinations.
  4. Rejection of candidates.
  5. Promotion based on competitive examinations, records of efficiency, character, conduct and seniority.
  6. Maintenance and use of necessary records and forms.

D. To have printed all rules and regulations, amendments, additions or deletions thereof, and to distribute same to each person having the authority to appoint or employ any Person to a Position within the meaning of this Chapter.

E. To provide the form in which requisitions shall be made upon the Commission by persons having the power to appoint, employ, transfer, or promote to positions within the classified service.

F. To certify the names of persons as indicated by the proper eligible list for the position specified in the requisitions. All certificates shall be in the order of priority of rating.

G. To classify employees according to qualifications in accordance with this Chapter and enter the names of applicants on the eligible list of the appropriate class.

H. To investigate all complaints arising from this Chapter and all alleged breaches of this Chapter and of its rules. In the course of such investigation, to subpoena witnesses, administer oaths, compel the testimony of witnesses and the production of documents relevant to such inquiry. It shall be the duty of any person so subpoenaed to appear and testify and produce such documents as are called for in such subpoenas.

I. To establish and amend such rules as are deemed necessary and appropriate to carry



out their duties.

### **ARTICLE 3. CLASSIFICATION OF SERVICE**

#### **Sec. 12-301. SERVICE CLASSIFICATIONS.**

City positions shall be divided into Exempt or Classified Service in regard to Personnel Service Commission application and examination procedures.

#### **Sec. 12-302. EXEMPT SERVICE.**

The exempt class shall consist of elected officials and members of appointed boards and commissions, the City Manager and Department Heads as well as their immediate administrative assistants, volunteers, consultants, temporary help and members of the School Department.

#### **Sec. 12-303. CLASSIFIED SERVICE.**

All other permanent City positions not specifically placed in the Exempt Service by this ordinance shall be the Classified Service. The Classified Service shall consist of the Competitive and Noncompetitive classes.

#### **Sec. 12-304. COMPETITIVE CLASS.**

The competitive class shall include all positions for which it is practicable to determine the merit and fitness of applicants by competitive examination, and shall include all full-time positions now existing, or hereafter created, in the Police Department and the Fire Department, except the Chief of Police and the Fire Chief, specialized positions in the Public Works Department, except that of the Director and specialized positions in the Cemetery and Parks Department, except that of the Superintendent. The Waste Water Treatment Facility may be included in the competitive class if such specialized positions are clearly defined and the rule made by the Personnel Service Commission for their inclusion.

#### **Sec. 12-305. NONCOMPETITIVE CLASS.**

The noncompetitive class shall include positions which are impracticable to include in the competitive class. For filling a position in the noncompetitive class, the appointing officer may nominate to the Commission a person for appointment if reported qualified by the Personnel Service Commission. The appointing officer shall certify that after due inquiry he finds that the habits and character of the nominee are satisfactory and fit for discharge of the duties of the position for which he/she is named. The examination for the position in the noncompetitive class shall be such as to determine that the candidate meets the requirements of this Chapter, or rules made hereafter, that he/she is physically qualified and possesses the requisite experience, knowledge and ability to satisfactorily discharge the duties of the position.

#### **Sec. 12-306. TEMPORARY EMPLOYMENT.**

A. When the public interest requires the creation of temporary (seasonal) positions, the head of the department may appoint, subject to the approval of the City Manager, the person(s) most available and best fitted for such work. Notice of these appointments, giving the name of the appointee, the occasion and probable duration of employment shall be filed immediately, in writing, with the Personnel Service Commission.

B. With the approval of the Personnel Service Commission and the City Manager, temporary appointments may be made to fill vacancies created by the leave of absence of a permanent employee or pending the availability of an appropriate eligible list for a position. Vacancies shall be filled after reasonable efforts to obtain qualified applicants for the position and with individuals from appropriate eligible lists whenever such lists are available.

C. The maximum duration of such appointments is six (6) months and may not continue beyond two (2) pay periods after the establishment of an appropriate eligibility list.

D. Temporary employees shall not be eligible for receiving any employee benefits except those mandatory programs regulated by law. They shall not have vested rights or preferential consideration for job opportunities which may become available within the City.

#### **Sec. 12-307. EMERGENCY EMPLOYMENT.**

A. During times of emergencies affecting the health, safety and welfare of the public as declared by City Council, all provisions of this ordinance with respect to appointments to classified positions shall be suspended until such time as the City Council shall declare the emergency terminated. Appointments during such periods of declared emergency shall be made by department heads with the approval of the City Manager.

B. All appointments made under this provision shall be for the period of the declared emergency only.

### **ARTICLE 4. APPLICATIONS, EXAMINATIONS, AND APPOINTMENT**

#### **Sec. 12-401. QUALIFICATIONS OF APPLICANTS.**

Any person shall be considered for appointment to a vacancy in the classified service who has filed an application therefor with the Commission, upon the form furnished by the Commission, who possesses the qualifications set forth by the Commission, and who furnishes such satisfactory evidence of the same and such evidence of sound health and physical ability to perform the duties of the position applied for as the Commission may require.

#### **Sec. 12-402. NOTICE OF EXAMINATION.**

Whenever a vacancy occurs in the classified service by reason of retirement, resignation,

discharge or the creation of a new position, for which there is no eligible list and to which appointing power intends to make an appointment, the Personnel Service Commission shall cause to be published, at least fifteen (15) days prior to the date of examination, an official notice inviting the filing of applications. The notice shall be published in three (3) consecutive issues of a newspaper circulated in the City and other publications if the position is such that recruitment of qualified candidates over a larger geographic area is necessary. The notice must contain:

1. The title, duties and probable rates of pay in the department for which the examination is held.
2. Any special physical or medical requirements and any special qualifications as to training and experience.
3. Method and place for securing application forms and time limit for acceptance of applications.
4. Equal Employment Opportunity Statement.

#### **Sec. 12-403. SCOPE OF EXAMINATIONS.**

All examinations shall be practical in their character, and shall relate to those matters which shall fairly test the intelligence, competency, suitability, physical ability and character of the applicants to discharge the duties of the service to which they seek appointment.

#### **Sec. 12-404. EXAMINATIONS.**

- A. The examination of applicants for appointment to the competitive class shall be conducted by the Commission and may be written, oral and practical tests of fitness, or any of them.
- B. The examination of applicants for the appointment to the noncompetitive class shall be in accordance with the requirements of Section 12-402.

#### **Sec. 12-405. GRADING.**

Within two (2) weeks after the conclusion of the examinations, the Personnel Service Commission shall grade the applicants on a total scale of one hundred percent (100%).

#### **Sec. 12-406. ELIGIBLE LIST: COMPILATION: EXPIRATION DATE.**

The Personnel Service Commission shall record the name of all applicants in the competitive and noncompetitive classes who have successfully passed the examination, listed in the order from the highest score to the lowest score. This list shall then become the eligible register for the position for which the examination was given and all appointments to the position shall be made from this list for a period of one year, unless the list is exhausted sooner.

An eligible list is considered exhausted when less than three names remain for certification. New examinations will be conducted when there is a need to fill a position.

**Sec.12-407. APPOINTMENT OF POLICE OR FIRE CHIEF OR PUBLIC WORKS DIRECTOR FROM EXISTING DEPARTMENT MEMBERS.**

In the event an existing member of the Police Department, Fire Department or Public Works Department is appointed Chief/Director of the Department and for any voluntary reason does not retain that position he/she shall be allowed to return to the position and rank previously held prior to said appointment providing that such change is made within one (1) year. Any subsequent promotion(s) made during such appointment will be reversed. Anyone hired as a result of said promotion(s) will be allowed to remain in the position for which said person was hired. If this results in overmanning the department, approval from City Council will be required. Should such approval be denied said person will be laid off in accordance with Sections 12-111 and 12-112.

**Sec. 12-408. COMPETITIVE APPOINTMENTS.**

- A. At the request of the City Manager for an eligible list for a competitive class appointment, the Commission shall present a certified list of candidates who have successfully passed the examinations.
- B. The City Manager, upon receipt of the certified names, shall appoint whomever of the persons so certified as in his opinion is best fitted to fill the position in the competitive class and shall notify the Personnel Service Commission of the appointment.

**Sec. 12-409. NONCOMPETITIVE APPOINTMENTS.**

The appointing officer in the noncompetitive class shall be the City Manager with the exception that the City Manager may authorize the head of a department to make such appointments in conformity with Item (1) of Section 302 of the Charter of the City. All appointments made by the department heads shall be subject to approval of the City Manager. All appointments shall be made in accordance with the applicable rules and regulations herein contained.

**Sec. 12-410. PROMOTION.**

**A. COMPETITIVE CLASS.**

(1) In so far as practicable and consistent with the best interest of the service, all vacancies in higher positions in the Competitive Class shall be filled from within the department, after a promotional examination has been given and an eligible list established. Appointment shall be made by the City Manager, from the three (3) highest scoring names on the promotional list.

(2) Whenever a promotional examination is given, the examination shall be subject to all

of the provisions of the rules and regulations governing open competitive examinations, except that publication of the examinations, as required by Section 12-402, is hereby waived.

(3) The notice of such promotional examinations shall be served, by posting a notice within the department in which the promotion is to occur, at least one (1) week prior to the date of such promotional examination.

#### **B. NONCOMPETITIVE.**

Employees of the City shall be given the maximum opportunity to advance within the service. Present employees shall be given first consideration in--filling a vacancy and may be given training opportunities to qualify for promotion. However, it is recognized that from time to time the public interest may require any vacancy to be filled from outside the service.

#### **Sec. 12-411. REJECTION FROM PROMOTIONAL PROBATIONARY APPOINTMENT; REINSTATMENT.**

An employee rejected or who voluntarily resigns during the probationary period from a position to which he/she has been promoted shall be reinstated to his/her previous position, unless charges are filed by the appointing officer and the employee is discharged as provided in this Chapter and the rules and regulations thereunder.

### **ARTICLE 5. DISCIPLINARY ACTION**

#### **Sec. 12-501. DISCIPLINARY ACTION.**

When, in the judgment of the department head, an employee's work performance or conduct justifies disciplinary action, short of dismissal, the department head may take appropriate disciplinary action which shall include only the following: oral reprimand, written reprimand, suspension of up to three (3) working days, or disciplinary probation. The disciplinary action taken by the department head shall be that action appropriate to deal with the severity of the situation and take into consideration the employee's past disciplinary record.

In instances where the work performance or conduct justifying discipline is of a serious nature, the City Manager shall have the authority to suspend for more than three (3) days or discharge an employee.

#### **Sec. 12-502. INTERIM SUSPENSION.**

Subsequent to any incident which might potentially give rise to disciplinary action, and prior to a determination as to appropriate disciplinary action by the department head, or in the case of suspension exceeding three (3) working days or discharge, by the City Manager, the department head shall have the authority to suspend the employee with pay. This interim suspension shall be effective until a determination of disciplinary action by the department head, or in the case of discharge, the City Manager.

### **Sec. 12-503. GROUNDS FOR DISCIPLINARY ACTION.**

No disciplinary action of any nature shall be taken without just cause.

### **Sec. 12-504. APPEALS.**

In the case of any disciplinary action, short of suspension in excess of three (3) working days or discharge, the employee shall have the right to file an appeal with the City Manager, such appeal to be filed in writing within ten (10) days of notice of the department head's determination of appropriate disciplinary action. The employee will be entitled to a conference with the City Manager and to present such evidence and witnesses at that conference as he/she may deem appropriate. If the employee is not satisfied with the determination by the City Manager, he/she may, within ten (10) days, appeal that action to the Personnel Service Commission. The Commission will then hold a hearing in accordance with their rules and procedures.

In the case of suspension exceeding three (3) working days or discharge, the employee shall have the right to appeal the City manager's determination directly in writing to the Personnel Service Commission, within ten (10) days of notification of the determination. The Commission shall then hold a hearing in accordance with its rules and procedures.

Upon appeal, the reviewing authority shall have the full power without restriction to affirm, modify, or reverse the determination appealed from.

### **Sec. 12-505. DEFINITIONS.**

**ORAL REPRIMAND.** Oral reprimand is an oral communication from the department head to the employee indicating the cause for the reprimand, the fact that the communication constitutes an oral reprimand, and, if appropriate, corrective action that needs to be taken by the employee. A written confirmation of the oral reprimand may be placed in the employee's personnel file and, if so, will clearly indicate that it does refer to an oral reprimand. A copy of such shall be provided to the employee.

**WRITTEN REPRIMAND.** A written reprimand is a written communication from the department head to the employee indicating the cause for the reprimand, the fact that the communication constitutes a written reprimand, and, if appropriate, corrective action that needs to be taken by the employee.

**SUSPENSION.** A suspension is a period of time during which the employee will not be permitted at the job site and will not receive pay of any kind. Notice of suspension indicating the cause, the duration of the suspension, and its effective date, shall be placed in the employee's personnel file with a copy to the employee.

**DISCIPLINARY PROBATION.** Disciplinary probation is a period of time, not to exceed three (3) months, during which the employee shall be considered a probationary employee to the

extent of any other new hire. Any further disciplinary action during this period will be cause for discharge. The cause of the disciplinary probation shall be noted together with its effective dates, not to exceed three (3) months, and shall be placed in the employee's personnel file with a copy to the employee.

**DISCHARGE.** Discharge is the termination of employment with the City. Upon such termination, the employee will not be entitled to any accumulated benefits except for wages for time previously worked prior to the date of dismissal.

## **ARTICLE 6. GENERAL CONDITIONS OF EMPLOYMENT**

### **Sec. 12-601. SCOPE OF ARTICLE.**

The scope of this Article is to set forth the following general conditions of employment for City employees not otherwise provided for.

### **Sec. 12-602. HOURS OF WORK.**

Due to variations in the different services provided by the City, it may be necessary to have variations in the hours per week in like positions. The hours of work shall be established by the City Manager with the advice of department heads.

### **Sec. 12-603. ATTENDANCE AT WORK.**

All employees shall be at their respective place of work in accordance with the general and departmental regulations pertaining to hours of work. All department heads are required to maintain daily records in accordance with the form provided by the City Manager's office. The department head shall forward a copy of the employee's attendance record to the Manager's office and the record shall become part of the employee's permanent file. In the event of necessary absence due to illness or any other cause, it is the employee's responsibility to see that the department head is notified of the absence and reason therefor, prior to the time the employee is expected to report to work.

### **Sec. 12-604. LEAVES OF ABSENCE.**

A. The City Manager, with the recommendation of the department head, may at his/her discretion, grant permanent employees a leave of absence without pay, not to exceed one (1) year. It shall be granted when it appears because of the past record of the employee, and it is in the best interest of the City to grant the leave because of the purpose for which it is requested.

B. All benefits and accumulation of seniority stop for the employee at the leave of absence and resume with his/her return to active City employment. City health insurance may continue during the leave of absence, however, at the employee's expense.

### **Sec. 12-605. HOLIDAY LEAVE.**



A. Permanent and probationary employees shall receive holiday time off with pay in accordance with the following prescribed schedule:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
Washington's Birthday	Veteran's Day
Patriot's Day	Thanksgiving Day
Memorial Day	Day After Thanksgiving
Independence Day	Christmas Day

B. For holidays occurring on a Saturday, the previous Friday will constitute a holiday; holidays occurring on Sunday, the following Monday will be considered the holiday. At the discretion of the City Manager, employees working and supervising special shifts or hours shall be subject to the same standards that apply to the employees which they supervise. Those employees that are required to work during a holiday, due to the nature of the position, will receive overtime pay that is one and one-half times the employee's current wage or compensatory time off for the time worked at the same ratio.

#### **Sec. 12-606. VACATION LEAVE.**

A. Each employee of permanent standing shall be awarded vacation time with pay at the convenience of the City, in accordance with his/her current term of continuous employment and in accordance with the following prescribed schedule:

1 Year - 2 Weeks

6 Years - 3 Weeks

15 Years - 4 Weeks

20 Years - 5 Weeks

24 Years - 6 Weeks

B. Vacation Leave will be accounted for on an anniversary basis. No vacation leave will be granted during the probationary period, but the time accumulated during the probationary period will be credited, retroactively, to the employee's total service time. Unused vacation leave may be carried forward up to the amount accrued during the preceding year. Accrued vacation leaves shall be paid to employees in good standing upon separation from service or to his/her beneficiary or estate upon death.

C. The scheduling of vacation shall be done by the department head, in accordance with the operational needs of the department, and as much as possible, with the employee's wishes. In the case of a holiday falling within an employee's vacation period, the vacation time will be extended

to compensate therefor.

D. In computing service time for vacation leave, official leaves of absence, or absence from duty for which sick leave is paid shall not constitute a break in the employee's service record. Employees working and supervising special shifts or hours shall be subject to the same standards that apply to the employees they supervise at the discretion of the City Manager.

#### **Sec. 12-607. SICK LEAVE.**

A. Sick leave for full-time permanent employees is earned at one (1) day per month. Sick leave may be accumulated to, but not exceeding, one hundred twenty (120) days of unused sick leave.

B. Sick leave may be granted by the City Manager for salaried officials under his/her supervision. Also one (1) day of sick leave may be granted to an employee due to illness of a member of the employee's immediate family, at the discretion of the department head.

C. In order to be eligible for sick leave compensation, the employee shall complete the necessary form and return it to the department head for approval. After a decision by the department head, the form and the department head's recommendation is forwarded to the City Manager for a final decision, either approving or denying the request. The City Manager or the City Council (for those appointed by the Council) may require a certificate from a qualified physician certifying that the condition of the employee justifies the absence from employment.

D. Probationary employees shall not be entitled to paid sick leave until they have completed their probationary period of employment. At the completion of the probationary period, cumulative sick leave shall be computed from the original date of employment.

E. Employees working and supervising special shifts or hours shall be subject to the same standards that apply to employees which they supervise at the discretion of the City Manager.

F. Sick Leave Pool. Any sick leave accumulated after an employee has accrued the maximum one hundred twenty (120) days will be credited to the City sick leave pool. This pool may accumulate up to a maximum of five hundred (500) hours. Any City Non-Union employee who, because of serious or extended illness or other extenuating circumstances, is without sick leave, may draw sick leave from this pool. The leave shall be drawn at the discretion of the City Manager, after reviewing the employee's previous use of sick time and the reasonableness of the request.

#### **Sec. 12-608. PARENTAL LEAVE.**

A. Parental leave shall be granted to an employee upon written request filed by the employee with the City Manager at least two (2) weeks prior to commencement of the leave. If emergency conditions require a shorter notice period, then the notice should be filed as soon as possible. Parental leave for females will begin on the date the employee's doctor feels she is no longer capable of effectively discharging the duties of here position. Parental leave for females shall

terminate when, in the opinion of the employee's doctor, she is capable of returning to work.

B. Parental leave shall be considered a temporary disability. Leave without pay shall be granted and shall not constitute a break in the employee's service record. In order for the leave to extend beyond the medically certified period, a written request to the City Manager must be filed. This request shall be treated in the same manner as employee requests for extended leave or personal leave.

C. The employee's position may be filled with a temporary appointment until the employee returns and is reinstated in his/her former position without any loss of benefits or seniority.

#### **Sec. 12-609. BEREAVEMENT LEAVE.**

Special leave with pay shall be granted regular employees for up to and including three (3) working days for absence caused by the death of a member of the immediate family. Immediate family shall mean parent, spouse, mother-in-law, father-in-law, child, brother, sister, half-brother, half-sister, brother-in-law, sister-in-law, grandparent, grandchild, stepchild, or legal guardian or ward. For other relatives, one (1) day may be allowed, except for unusual circumstances, for which the City Manager may grant additional time, if warranted. Additional time for bereavement leave may be granted at the discretion of the City Manager.

#### **Sec. 12-610. COURT LEAVE.**

City employees called upon for jury service will receive their regular salary from the City during jury service, less the amount received for serving on a jury. Any employee summonsed as a witness on the behalf of any local, county, state, or national government shall be granted court leave, and will receive their regular salary from the City during such service less the amount received for serving as a witness. The payment of regular salary, less any fees received, for service concerning a summons for non-governmental purposes shall be left up to the discretion of the City Manager.

#### **Sec. 12-611. RESERVE SERVICE LEAVE.**

Permanent employees who are members of the organized Military Reserves and who are required to perform field duty shall be granted Reserve Leave not to exceed two (2) weeks in any calendar year in addition to regular vacation leave. During any such period of Reserve Service Leave the City shall pay the employee the balance between the service pay and the employee's regular compensation, the total equaling the regular pay of the employee, if the employee had been in the service of the City during the period of leave. As a condition of payment, the employee shall file with the City Manager an official statement from the proper military authorities, stating his/her rank, pay and allowances.

#### **Sec. 12-612. INJURIES LINE OF DUTY.**

A. The City of Bath provides Worker's Compensation coverage for all employees.

B. Any employee who sustains a compensable illness or injury which arises out of and in the course of his/her employment shall be paid during each week of total incapacity resulting from the injury or illness, an amount sufficient, when added to the weekly payment of Worker's Compensation paid under the laws of the State, to equal his/her regular weekly salary or normal wage.

C. Any injured employee may request on forms provided by the City, that the City begin full payment of salary immediately, to insure that there will be no delay in Worker's Compensation benefits. The employee, however, must stipulate to reimbursement of such payments to the City upon receipt of the Worker's Compensation payments.

D. Such additional payment shall not be continued beyond four (4) weeks except upon an order passed by the City Council. No additional payments shall be made in any instance when in the opinion of the department head and City Manager, the accident occurred as a result of intoxication, willful intent, violation of rules and regulations on the part of the employee, or while the employee is in the employment of any other person, firm, or organization.

#### **Sec. 12-613. COMPENSATION.**

It is the intent that all City employees be paid salaries and compensation for comparable public and private work in the area and that will attract and retain well qualified employees. The Non-Union employees pay plan shall be set by resolution of the City Council of the City of Bath upon recommendation of the City Manager. This pay plan shall be passed by the resolution process at the same time as passage of the annual City Budget and may be amended or restructured from time to time as the City Council may deem appropriate.

A. **OVERTIME.** All work which exceeds forty (40) hours per week shall be considered overtime work and will be compensated for by overtime pay at a rate equal to one and one-half times the employee's regular wage or by compensatory time off for the employee. However, it is understood that job responsibility is the basis for which salaried positions are paid and it is the responsibility of the person who fills this position to accomplish the work required, regardless of the hours needed to do the work, within reason. Employees working and supervising special shifts or hours shall be subject to the same standards that apply to the employees which they supervise at the discretion of the City Manager.

B. **LONGEVITY.** (a) As of April 1st of each year and commencing with the 43rd month of continuous employment with the City of Bath, all Non-Union permanent employees shall be credited with longevity compensation at the rate of one (\$1.00) dollar per month up to, and including, a maximum of two hundred and fifty-seven months. (b) Upon the separation of employment or retirement, longevity compensation will be paid up to and including the final full month of employment. In the event of any employee's death, longevity compensation shall be paid to his/her beneficiary or estate.

#### **Sec. 12-614. MERIT INCREASES.**

Any step increase in pay in accordance with the City Pay Plan-Non-Union employees, shall be in accordance with the within described merit increase system. Any employee shall be eligible to apply for an increase to the next pay step. The employee shall be judged with respect to his/her application for merit increase in accordance with the following: attendance at work, including use of sick leave; attitude; initiative; ability to complete assigned tasks; amount of supervision necessary; overall performance; comparison of performance and other factors with fellow employees, and, in cases where appropriate, the manner and safety of operation and use of equipment.

The procedure for consideration of merit increase is as follows:

(1) A request for merit increase shall be initiated by a review requested by the employee and conducted by the supervisor, or, in the absence of any supervisor, by the Department head.

(2) If a supervisor conducts the review in accordance with the above established criterion and any other criterion found appropriate by the supervisor of his employee, it shall be submitted with a recommendation to the department head.

(3) The department head whether on his own review or the review of the supervisor shall make a determination as to whether or not the employee merits the increase and shall file with the City Manager his recommendation.

(4) The City Manager shall make a determination as to whether or not a merit increase is appropriate and, if appropriate, shall execute and pass on to the Finance Department the appropriate change in status documentation.

(5) The employee, if aggrieved by the decision of the City Manager, may appeal the decision by filing a written request for hearing with the Personnel Service Commission, within ten (10) days of notice of the decision to the employee. The Personnel Service Commission shall hold a hearing within twenty (20) days of the filing of the request, at which time the employee shall have an opportunity to present whatever evidence he/she may desire in support of his/her merit increase. The Personnel Service Commission shall have the right to consider additional evidence as may be relevant to the request. The decision of the Personnel Service Commission shall be rendered within five (5) days from the date of hearing and shall be binding on all parties.

#### **Sec. 12-615. COST SAVINGS BONUS PLAN.**

There will be a bonus paid to employees responsible for cost savings proposals. These proposals must be submitted in writing to the City Manager, and their implementation approved by the City Manager or the Department Head. In those instances where the implementation results in a cost savings, the employee shall be paid fifty per cent (50%) of such savings up to a maximum amount of \$500.00 for the first six-month period that the cost savings plan is in effect.

#### **Sec. 12-616. INSURANCE.**

The City agrees to participate in the cost of health insurance coverage through the Maine Municipal Employee Health Trust Insurance Plan or with comparable coverage in an equivalent program. Employees shall assume ten (10%) percent of the premium costs of the policy coverage selected by

the City.

**Sec. 12-617. GRIEVANCE PROCEDURE.**

If, due to some condition of employment, an employee feels aggrieved, then the employee shall have the right, and shall be expected to appeal, in writing, within ten (10) working days from the date the alleged grievance occurred, to the department head for the purpose of adjusting or resolving the grievance. The department head shall render a decision, in writing, to all parties, within seven (7) calendar days from the date the grievance was submitted. If the decision of the department head does not resolve the grievance to the satisfaction of all parties, a written appeal may be taken to the City Manager, and such appeal must be submitted within seven (7) calendar days from the date the department head rendered his/her decision. The City Manager shall render a decision to all parties, in writing, within seven (7) calendar days from his/her receipt of the appeal. The decision of the City Manager shall be final and binding upon all parties.

Effective 7/12/1989

## CHAPTER 13

### REFUSE

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## **CHAPTER 13. REFUSE**

### **Article 1. Garbage and Refuse**

#### **Section 13-1. Definitions.**

As used in this Chapter:

(1) Ashes shall mean residue from the burning of wood, coal, coke or combustible material.

(2) Contractor shall mean any person who contracts with another to do special work according to price, specifications and terms agreed on, in the business of cement or concrete contracting, either flat, form or wall work; a masonry contractor; remodeling contractor; general building contractor; electrical contractor; roofing contractor; plumbing contractor; landscaping contractor; and any person engaged in the construction, alteration or repair of buildings or other structures or sidewalk or driveway pavements.

(3) Garbage shall mean putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(4) Refuse shall mean all putrescible and on-putrescible solid waste, including garbage, rubbish, ashes, street cleaning, abandoned automobiles, and solid market and industrial waste.

(5) Rubbish shall mean non-putrescible solid waste consisting of both combustible and on-combustible waste such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials.

(6) Person is any individual, association, partnership, firm, corporation or other entity or the agents of any of them.

(7) Resident shall mean any person who resides within the geographic boundaries of the City of Bath or who may pay property taxes to the City or any resident or taxpayer of a Municipality which contracts with the City of Bath for use of the Bath Landfill Facility.

(8) Waste shall include garbage, rubbish and refuse as defined in Section 13-1 (3) (4) (5).

(9) Demolition and Construction Debris shall include lumber, bricks, masonry, asphalt, shingles, insulation and other similar material.

(10) Household Refuse shall include that refuse commonly generated by usual residential domestic activities and excludes material defined as demolition and construction debris, furniture, white goods, tires, abandoned automobiles, and any other items that cannot completely fit into the officially designated PAYT bag. Household refuse shall specifically exclude refuse generated at properties with more than two (2) dwelling units on them (excluding condominiums), as well as refuse generated by bed and breakfast establishments and dwellings with Class B home occupation uses. Such refuse from these units shall be considered commercial for purposes of collection and shall not be collected as residential household refuse. (Order: 8-1-2018)

Officially designated bag shall mean the container designed and selected by and manufactured for the City for use by residents for the holding of household wastes for curbside collection as part of the PAYT program. The container is sold at retail establishments for residents' purchase and use. Household wastes not completely enclosed by this container will not be picked up by the curbside collection contractor.

PAYT is Pay-As-You-Throw, a unit-based pricing program for the collection of solid waste whereby waste placed at the

(11) Commercial Hauler shall mean any hauler of commercially generated waste including demolition and construction debris. Persons hauling refuse for apartment buildings, bed and breakfast establishments and rooming houses of more than two units shall be considered commercial haulers.

(12) Non-household Refuse shall include white goods, furniture, tires, abandoned automobiles, and any other item that exceeds sixty (60) pounds in weight or four (4) feet in any dimension, and the like.

#### Section 13-2. City dumping facilities; use of facilities.

(a) The City Council shall provide a suitable place for the depositing, dumping or disposal of refuse. All persons shall cause such refuse to be disposed of in the place provided by the Council.

(b) The city Clerk, upon written application, may issue permits, after approval of the permit by the Health Officer, or his or her designee, to deposit upon private lands, earth, ashes, cinders or rock for filling in purposes, but not putrescible, organic, vegetable or animal matters, except fertilizer and manure shall be deposited on such private fills.

(c) Private landfills are prohibited within the City of Bath.

(d) Use of the City landfill facility is limited to Bath residents. Bath businesses and residents and businesses of Towns under contract or other agencies approved by council.

#### Section 13-3. Refuse collection; license required.

(a) No person shall, within the City, collect for compensation, any refuse, or engage in the business of collecting and transporting refuse without first obtaining a license therefore from the Clerk.

(b) No person shall deposit or dump refuse at the place provided by the Council without first obtaining a license.

Section 13-4. License classification; fee.

(a) The City Clerk, upon written application therefore, and, if applicable, the payment of the fee as listed below, may issue permits in the following categories to convey to the City dump.

CATEGORY	FEE
(1) <u>Residential</u> (a) Residents of the City and Residents of Municipalities Contracting with the City for Household Refuse	No fee (see §13-41 re: Limitation of access after July 1, 1988)
(b) Residents of the City and Residents of Municipalities contracting with the City for items not considered Household Refuse, but being classified as Non-Commercial.	No fee
(2) <u>Commercial</u> - (a) Any person, Resident or Non-Resident, that collects for compensation within the City or refuse from City residents and businesses and depositing said refuse at City Dump.	\$75.00 per vehicle
(b) <u>Contractors</u> - 1. Yearly permit to haul from any work site within the City.	\$45.00
2. For each work site if a yearly city-wide permit is not obtained.	\$25.00
(3) <u>Businesses</u> - Businesses within the City who do not have their waste collected by a commercial hauler	\$25.00

The above captioned fees may be altered or amended from time to time by Resolution of the Bath City council. It is understood that these license fees are for access to the dump facility and are in addition to those fees based on the volume of material placed in the dump site in accordance with Section 13-32. (CHECK)

Section 13-5. License expiration date.

All licenses and permits issued under this Article shall expire on June 30 of each year.

Section 13-6. Suspension of license.

The Health officer, or his or her designee, may suspend the license or permit of any person for failure to comply with the provisions of this Article, such suspension to continue until such person, in the judgment of the Health Officer, or his or her designee, has remedied the faults and agrees to comply with the provisions of this Article in the future. The Health officer, or his or her designee, shall suspend the license or permit of any person found guilty by a court of competent jurisdiction of any violation of the provisions of this Article.

Section 13-7. Revocation of license.

The Council may, upon a hearing had after twenty-four (24) hours written notice to the

licensee, revoke the license of any person for failing to comply with the provisions of this Article.

#### Section 13-8. Hours of operation of dump.

The place provided by the Council for the depositing, dumping or disposal of refuse in accordance with Section 13-2 shall be open to all persons on a schedule to be determined by the City Manager. The schedule shall be available at the office of the Clerk and shall be posted at the dump.

#### Section 13-9. Vehicle transportation refuse to be covered.(Ord. 9-6-08)

A. Security of Load. Any vehicle, including City owned vehicles, that may be operated upon any public way within the City of Bath, which is conveying refuse, shall have that refuse covered, confined, loaded, closed, or sealed in a manner as to prevent any overflow, spillage, or leakage of the refuse material. The owner and/or operator of the vehicle shall use such material and method of securing the load such that will ensure its security.

B. Party Responsible. Responsibility for securing the load shall be with the owner and with the operator of the vehicle.

C. Clean Up. Any material that has fallen or spilled from the vehicle onto a public way or adjoining private property, shall be removed or cleaned up immediately by the owner and/or operator of the vehicle. All costs of removal or clean up and proper disposal of the material shall be borne by the owner and/or operator.

#### D. Penalties and Costs.

1. Warning. If the owner and/or operator is not a habitual offender and the unsecured load has caused minimal or no spillage, then a written warning may be issued at the discretion of the issuing officer.

2. Penalty. A violation of this Section is a civil violation and is subject to a penalty of not less than One Hundred and Fifty Dollars (\$150.00) nor more than One Thousand Dollars (\$1,000.00). Such penalty shall be imposed for any violation that is determined to be more serious, due to frequency or magnitude of spillage, than a violation that would merit only a warning.

3. Clean Up Costs. In addition to the penalty above, the owner and/or operator of the vehicle, jointly and severally, shall be responsible for any costs of clean up and proper disposal of any spillage material.

4. Enforcement Costs. The City of Bath shall be reimbursed all of its enforcement costs, including, but not limited to its reasonable attorney's fees, court costs and staff costs.

5. License Suspension/Revocation. If the owner and/or operator of the vehicle is a

commercial entity with a license to dispose of refuse material at the Bath City Landfill, that license may be suspended or revoked by the Codes Enforcement Officer. Any appeal of a suspension or revocation order may be made to the City Manager.

#### Section 13-10. Transporting refuse into City.

No person shall deposit, dump or dispose of refuse, rubbish, garbage or any other item of waste material or in the place provided by the Council, which has been collected from outside the city limits unless the council negotiates a contract for such use with an adjacent community or entity reviewable yearly, provided that any person collecting for compensation outside the City limit must get a permit under Section 13-4.

#### Section 13-11. Burial of dead animals.

No dead animals shall be buried or deposited at any time at the place provided by the Council for the depositing of rubbish, garbage and other waste matter. No person shall dispose of the carcass of any animal within the City except by burying it in a suitable place at least two (2) feet under ground, and subject to the provisions of 7 M.R.S.A. § 1815.

#### Section 13-12. Depositing refuse in public prohibited.

Except as provided in Sections 13-2 and 13-3, no person shall throw or deposit, or cause to be thrown or deposited, any refuse in any street, gutter, cesspool, lane, court, square, alley, wharf, dock, body of water adjacent to the City, or any property within the City not designated as a refuse disposal area.

#### Section 13-13. Maintenance of waste receptacles.

All waste receptacles must be kept clean, free from objectionable odors and securely covered at all times except when depositing or removing the contents. The receptacles shall be kept so that the contents shall not freeze and where it will be convenient to access to the collector.

#### Section 13-14. Accumulation of refuse as health hazard.

No person shall cause or permit the accumulation of refuse in, about or upon premises owned, occupied or used by him, when and if, in the judgment of the Health officer, or his or her designee, such accumulations are unsightly, unsanitary or hazardous to the property, life, health, safety and welfare of the public.

#### Section 13-15. Enforcement.

The Health officer, or his or her designee, and the Police Department shall see that the provisions of this Article are enforced and that all violations thereof are promptly abated and the violations thereof prosecuted.



#### Section 13-16. Penalty.

In addition to any other penalty provided herein, any licensee under this Article violating any provision hereof, shall have the use of his permit license suspended for a period of six (6) months, and, any person violating this Article shall be subject to a fine of up to One Hundred Dollars (\$100.00).

#### Section 13-17. Dump scavenging prohibited.

No person, firm, or corporation, or their agents, shall, except by permission of the City Council of the City of Bath, remove any article or object which has been deposited or dumped and left at the City dump, nor shall they enter on or upon any place designated by the City Council of the City of Bath as a City dump, with the intent to pick, take, collect or in any way acquire any article, matter or substance which has been deposited or dumped and left at said City dump. Any such person, firm, or corporations violating this Section shall be punished as a Class "E" offender, pursuant to Title 17-A of the Maine Revised Statutes Annotated. Any person, firm or corporation convicted of a second or subsequent offense shall be punished as a Class "D" offender, pursuant to said Title 17-A.

#### Section 13-18. Prohibition against using public receptacles for household refuse.

It shall be a violation of this Section for any person to deposit in a public waste receptacle any household refuse carried from a household, or industrial or commercial waste.

#### Section 13-19 - 13-25. Reserved.

### **Article 2. Landfill Fee Schedule**

#### Section 13-30. Purpose

The purpose of this Article is to provide for a fee structure for use of the Bath Landfill Facility.

#### Section 13-31. Operational Standards

A. Placement of Wastes. All waste and materials delivered to the site shall be deposited only in those areas designated by the Public Works Director or his designee.

B. Prohibited Wastes. The following wastes shall not be accepted for deposit in the landfill.

1. Junk vehicles
2. Dead Animals
3. Sewerage
4. Waste classified as hazardous
5. Waste classified as radioactive
6. Containers of liquid or solid waste that are sealed and or closed.

## 7. Cathode Ray Tubes (Ord. 2/6/02)

C. License Required. All persons utilizing the landfill facility shall be licensed in accordance with Section 13-3 and Section 13-4.

### Section 13-32. Fee Schedule

#### RESIDENTS

Metal/demolition up to 500 lbs.	\$5.00
Metal/demolition over 500 lbs.	\$65.00/ton
Natural wood products, brush, leaves, yard waste up to 500 lbs.	\$5.00
Natural wood products, brush, leaves, yard waste over 500 lbs.	\$50.00/ton
Porcelain up to 500 lbs.	\$5.00
Porcelain over 500 lbs.	\$46.00/ton
Leaves up to 500 lbs.	\$5.00
Leaves over 500 lbs.	\$20.00/ton
Demolition Wood up to 500 lbs.	\$5.00
Demolition Wood over 500 lbs.	\$60.00/ton

#### COMMERCIAL HAULERS:

A. The City Manager shall have the authority to adjust the tipping fee per ton of material on a short-term basis, not to exceed thirty (30) days, in order to be responsive to market conditions concerning the disposal of solid waste. Any adjustment by the City Manager shall be effective upon its promulgation and shall remain in effect for no longer than thirty (30) days unless confirmed by Resolution of the City Council within the thirty (30) day period. (9/01/04)

Municipal Solid Waste	\$90.00/ton
Construction/Demolition waste from Bath	\$65.00/ton
Construction/Demolition waste from outside Bath	\$85.00/ton
Metal items from Bath	
\$65.00/ton	
Metal items from outside Bath	\$85.00/ton
Bulky Waste from Bath (mattresses, overstuffed furniture, etc.) (> 500 lbs only)	\$100.00/ton
Bulky Waste from outside Bath (> 500 lbs. only)	\$100.00/ton
Mixed Loads from Bath containing items we separate (metals, tires, etc.)	\$300.00/ton
Mixed Loads from outside Bath	\$300.00/ton

#### RESIDENTS & COMMERCIAL HAULERS:

##### **Tires:**

Car tire up to 16" diameter, no rim	\$2.00/tire
Car/Truck tire greater than 16" diameter, no rim	\$10.00/tire
Heavy Equipment Tires \$0.15 per pound with	\$25.00 minimum

##### **Asphalt Roof Shingles:**

Clean Asphalt Roof Shingles from Bath	\$60.00/ton
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Clean Asphalt Roof Shingles from outside Bath	\$65.00/ton
Mixed Asphalt Roof Shingle	Not Accepted

**Tanks:**

Propane - 20 lb.	\$2.00 each
Helium – any size	\$5.00 each
Fire Extinguishers – any size	\$5.00 each

**Porcelain:**

Bath Residents	\$46.00/ton
With first 500 lbs @\$5	
Commercial from Bath	\$46.00/ton
With \$5 minimum	
From outside Bath	\$51.00/ton
With \$5 minimum	

**Natural wood products (brush, tree parts & leaves):**

Residential from Bath Residents	\$50.00/ton
With first 500 lbs @ \$5	
Commercial from Bath	\$50.00/ton
With \$5 minimum	
Residential or Commercial from outside Bath	\$70.00/ton
With \$5 minimum	

**Leaves**

Residential from Bath Residents	\$20.00/ton
With first 500 lb. @ \$5	
Commercial from Bath	\$20.00/ton
With \$5 minimum	
Residential or Commercial from outside of Bath	\$20.00/ton
With \$5 minimum	

**Demolition Wood Products (separated from other wastes)**

Residential from Bath Residents	\$60.00/ton
With first 500 lb. @ \$5	
Commercial from Bath	\$60.00/ton
With \$5 minimum	
Residential or Commercial from outside of Bath	\$80.00/ton
With \$5 minimum	

**Universal Wastes:**

Item	Bath Sources	Out-of-Town Sources
Light Bulbs		
Straight 2' fluorescent	Free	\$1.00 each
Straight 4' fluorescent	Free	\$1.50 each

Straight 8' fluorescent	Free	\$2.00 each
U-shaped fluorescent	Free	\$3.50 each
Circular fluorescent	Free	\$3.50 each
Other lamps*	Free	\$6.50 each
*High intensity discharge, neon, mercury vapor, high pressure sodium, metal halide		
PCB Ballasts	Free	\$7.00 each
Rechargeable Batteries*	Free	Free
*Nickel-Cadmium (Ni-CD), Nickel-Metal Hydride (Ni-MH), Lithium Ion (Li-ion), Small sealed lead (Pb) up to 2 lbs each		
Mercury Thermostats	Free	\$1.00 each
Mercury Thermometers	Free	\$1.00 each
Residential Cathode Ray Tubes	\$4.00 each	\$4.00 each
Commercial Cathode Ray Tubes	\$15.00 each	\$15.00 each
Computer CUP/Laptops	\$3.00 each	\$3.00 each
Desktop printer/scanner/fax/ups	\$9.00 each	\$9.00 each
Computer peripherals (mouse, keyboard)	\$2.00 each	\$2.00 each

**Drywall/Sheetrock (clean only):**

Clean Drywall from Bath	\$65.00/ton
Clean Drywall from outside Bath	\$70.00/ton
Mixed Clean Drywall Not Accepted	

### Vehicle Batteries:

Any type (limit of 2 per customer per day)	\$5.00 each
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**Asbestos (non-friable only):**

From Bath	\$60.00/ton
From Outside Bath	\$75.00/ton

### Special Wastes\*

\$100.00/ton                      \$100.00/ton

\* The City reserves the right to charge additional tipping fees to cover the costs of any laboratory characterization to determine the constituency of such waste. The City reserves the right to reject any special wastes.

Fees for the above-described items may be deleted or adjusted, and other items may be added by Resolution of Council.(Ord. 5/7/2003; Ord. 4/6/2005)

## Section 13-33. Non-payment

Failure to pay any fee assessed hereunder shall constitute a violation of this Section and shall result in refusal of access to the facility and prohibition of any additional dumping of material or other use of the facility. In addition, any fee that remains unpaid thirty (30) days after the date of billing, will be assessed interest at the same rate as assessed against unpaid ad valorem property

taxes as set annually by Council in accordance with Section 7-101 of the Code. (Ord. 2/1/2006)

### **Article 3. Mandatory Curbside Pickup**

Section 13-40. Purpose; effective date.

The purpose of this Article is to provide for mandatory curbside pickup of all household refuse, as that term is defined in Section 13-1(10) of this Chapter, in order to more appropriately provide for the safe and sanitary operation of the City's solid waste facility, to protect the health, safety, and welfare of the citizens of the City of Bath, and to enhance and maintain the quality of the environment. This Ordinance shall take effect on July 1, 1988.

Section 13-41. Access to landfill facility.

As of the effective date of this Ordinance, no person, individual, association, partnership, firm, corporation, tenant, owner, or other entity or the agent of any of them, will be permitted access to the Bath Landfill Facility for the purpose of disposing of household refuse as defined in

Section 13-1(10). Access may be had, however, for the purpose of disposing of items not defined as household refuse, such as stumps or brush, demolition and construction debris, white goods, tires or the like, said disposal to be in accordance with this Chapter.

Section 13-42. Mandatory curbside pickup established.

The City of Bath, either through its own offices and employees, or by virtue of contract(s) with Private refuse collection contractor(s), or any combination thereof, shall provide for the curbside pickup of all household refuse within the City of Bath as that term is defined in Section 13-1(10), and specifically excluding refuse generated at properties with more than two (2) dwelling units on them. (Order: 8-1-2018)

Section 13-43. Collection requirements. (The effective date of this Section of the Ordinance shall be October 1, 2007)

Curbside pickups shall be conducted in accordance with the following standards:

- (1) **Security.** All household waste shall be placed in an officially designated bag as defined in this ordinance. The containers may be placed inside steel or plastic cans to prevent damage by animals and weather and to prevent odors.
- (2) **Weight, Number.** The weight limit of each individual officially designated bag will be 60 pounds. Each residential unit is permitted to set out for collection up to 6 containers per week or collection period.
- (3) **Curbside Access.** Household waste for collection shall be placed on the curbside on the day designated for collection in that area by 7:00 A.M., but at no rate earlier than 6:00 p.m. of the prior day. Empty containers shall be removed as soon as practical after the

refuse is collected. Containers and packages shall not be left so as to interfere with the passage of vehicular or pedestrian traffic winter snow removal, or street sweeping.

(4) Litter Control. All reasonable precautions shall be taken to control the blowing of litter; household waste, which has been placed in containers for collection, which have been pilfered by animals, which constitutes litter, will not be picked up and will be the responsibility of the occupant.

(5) Rules and Regulations. Curbside pickup shall be subject to such Other rules and regulations as may from time to time be promulgated by resolution of the Bath City Council.

(6) Authority to refuse collections; owner's duty to dispose. The city may refuse to accept for collection any refuse which has been put out for collection in a manner which does not comply with the requirements of this chapter or which is too large to fit into the officially designated bag. The owner of such refuse has the responsibility of promptly disposing of it in a proper manner.

(7) Pay-as-you-throw Program

The City Council shall cause to be established a unit pricing program for the collection of residential municipal solid waste, hereafter referred to as the Pay-As-You-Throw (PAYT) program. The city shall provide for the manufacture of approved containers for residents' use and arrange for retail sale of the containers. To participate in the curbside collection program, residents must place all municipal solid waste into an approved container. Waste not placed into an approved container will not be collected. Waste must be completely enclosed by the container and the container must be tied or otherwise sealed closed. Items too large to fit into the container will not be collected, but will be accepted for disposal or recycling at the landfill upon payment of the appropriate fee, if any.

Fees for purchase of each officially designated bag are initially established as follows:

15 gallon bag \$1.25 each bag

30 gallon bag \$2.00 each bag

These fees may be adjusted by Resolution of the City Council.

The fees for purchase of officially designated bags used in the operation as the Pay-As-You-Throw (PAYT) program shall be placed in a Special Purpose Fund designated by City Council for use in connection with landfill related expenses, including but not limited to remediation and closeout costs, and shall not be placed in the City's General Fund. (7-11-07)

These fees shall be included in Appendix A.

## **Article 4. Mandatory Recycling**

Section 13-50- Purpose; effective date.

The purpose of this Article is to provide for a mandatory recycling program for the City of Bath, said program being a necessary and appropriate exercise of the police power in order to save natural resources, conserve energy, and maximize the capacity of the City of Bath Landfill Facility. Mandatory recycling shall be effective on a date to be determined by resolution of Council.

Section 13-51- Access to recycling facility limited.

Access to the City of Bath Recycling Facility shall be limited to those persons hauling normal household wastes under the City of Bath mandatory curbside pickup program and those commercial haulers hauling commercially generated wastes as provided in Section 13-1(12). Access of all others to the Facility shall be prohibited.

Section 13-52. Separation of recyclable material.

Each resident utilizing the municipal mandatory curbside pickup for normal household waste, and each business enterprise disposing of its waste through commercial hauler, shall be responsible for separating from the normal waste stream, all items determined to be recyclable, by category, said category to be determined by resolution of the Bath City Council. Each separate category of waste shall be properly prepared for pickup in accordance with said rules and regulations.

Section 13-53. Determination of recyclable commodities; rules and regulations. The Council, by promulgation of rules and regulations, shall establish those items which it deems to be recyclable, which items may from time to time be amended, deleted or added to. In addition the Council shall by the promulgation of rules and regulations, determine the proper preparation of these recyclable commodities, its method of collection, and disposition.

Section 13-54. Ownership of recyclable materials.

From the time of placement of recyclable materials at the curbside, or from the time of pickup of commercial recyclable materials by a commercial hauler, such material shall become the sole and exclusive property of the City of Bath. It shall be a violation of this Section for any person, without prior authority from the City of Bath, to collect, pickup, remove or cause to be collected, picked up, or removed, any recyclable material, and each such collection, picking up, or removal, from each individual premises shall constitute a separate and distinct offense.  
(Ord. 88-12)



## **Article 5 - Single Use Carry-Out Bags (11/8/2017)**

### **Section 13-61. Purpose.**

It is in the best interest of the citizens and visitors to Bath to protect the environment and natural resources of the City of Bath and the State of Maine by: discouraging the distribution and use of disposable, single- use, carryout paper shopping bags, prohibition of single-use carry out plastic bags and encouraging the use of reusable shopping bags in stores, as defined below. The purpose of this ordinance is to:

- Reduce litter arising from single use bags;
- Reduce taxpayer expenses to clean-up or otherwise manage litter and its impact;
- Reduce the environmental impact of their manufacture, transportation, and disposal;
- Create a citizenry informed about the impact of plastic in the environment; and,
- Encourage a culture of sustainability and discourage a culture of disposability.

### **Section 13-62. Authority.**

This ordinance is enacted under the Home Rule Authority of municipalities pursuant to the Constitution of the State of Maine, Article VIII, Part 2, Section 1, the provisions of Title 30-A M.R.S. Section 3001 et. seq. as well as the general powers of municipalities to enact police power ordinances.

### **Section 13-63. Findings.**

- Single-use carryout bags have a negative impact on the environment and wildlife; and
- The City believes that the best alternative to single-use carryout bags is the use of reusable bags for shopping, which is accomplished through prohibiting the free distribution of single-use carryout bags by stores, as defined in this section.
- It is important to keep the City of Bath as litter-free as possible to enhance the quality of life for Bath's residents and visitors; and
- Bath is a coastal community with a vested interest in protecting water resources from plastic debris; and

### **Section 13-64. Definitions.**

Single-Use Carryout Bag means a bag other than a reusable bag, as defined below, provided at the check stand, cash register, point of sale or other point of departure from the store for the purpose of transporting food or merchandise out of the establishment. The term *Single-Use Carryout Bag* includes compostable and biodegradable bags, including paper bags, but does not include reusable bags, produce bags, or product bags.

Produce Bag or Product Bag means any bag without handles used exclusively to carry

produce, meats, seafood, prescriptions, other food items or merchandise within the store to the point of sale inside such store or to prevent such items from coming into direct contact with other purchased items.

Reusable Bag means a bag that meets all of the following criteria:

- A. Is designed and manufactured to withstand repeated uses over a period of time;
- B. Is washable or made from a material that can be cleaned and disinfected regularly;
- C. If plastic, has a minimum thickness of 2.25 mils, has handles, and has the capability of carrying a minimum of 18 pounds.

Store means all retail establishments and restaurants located within the City of Bath engaged in the sale of perishable or non-perishable goods to the ultimate consumer for direct use or consumption and not for resale, such as:

- A. A drug store, pharmacy, grocery store, convenience food store, food mart, or other entity located in a permanent building, operating year-round, and which sells at retail a line of staple foodstuffs, meats, produce, household supplies, dairy products or other perishable items.
- B. A hardware store, home improvement supplier, clothing store, print shop, entertainment retailer, personal care product retailer including jewelry, gifts, house wares and crafts.
- C. A farmer's market and/or its tenant participants or other temporary and/or seasonal retail entities.
- D. Fairs, festivals, craft or flea markets, or other events of an infrequent and short-term nature, shall not be considered stores for the purposes of this article.

### **Section 13-65. Restrictions on Single-Use Carryout Bags.**

- A. Prohibition. No store, as defined above, shall provide a single use carryout bag made of plastic that does not meet all the criteria as a reusable bag, as defined above, to a customer at the check stand, cash register, point of sale or other point of departure from the store, for the purpose of transporting food or merchandise out of the establishment.
- B. Single-Use Paper Carryout Bags.
  - 1 A store may make available for sale to a customer a single-use paper carryout bag for a mandatory, minimum charge of five cents (\$0.05) per bag. The charge will increase to ten cents (\$0.10) per bag one year after this ordinance takes effect. The charge will increase to fifteen cents (\$0.15) per bag two years after this ordinance takes effect.

- 2 All monies collected by a store for single-use carryout paper bags under this section shall be retained by the store and used by the store for any lawful purpose.
  - 3 All stores shall post signage at each point of sale clearly indicating the per bag charge for single-use carryout paper bags. This requirement shall not apply to restaurants.
  - 4 Notwithstanding this section, no store may make available for sale a single-use carryout paper bag unless the amount of the sale of the single-use carryout paper bag is separately itemized on the sale receipt.
  - 5 No store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in subsection (b).
- C Customer Options. Nothing in this section shall be construed to prohibit customers from using bags of any type that the customer brings to the store for their own use or from carrying away from the store goods that are not placed in a bag provided by the store.

#### **Section 13-66. Exemptions**

A Store may be deemed exempt from the provisions of this ordinance by the City Manager, in a situation which he determines to be an emergency, threatening and requiring the immediate preservation of the public health or safety.

#### **Section 13-67. Violations and Enforcement.**

The City Manager or his/her designee(s) shall have the responsibility for enforcement of this Ordinance. If the City Manager or his/her designee(s) determines that a violation of this Ordinance has occurred and is the first violation by the establishment within a one-year period, he/she shall issue a written warning notice to the Store that a violation has occurred. Subsequent violations of the Ordinance shall be subject to the penalties set forth below.

Violations of this Ordinance shall be punishable by fines as follows:

- A fine not exceeding \$250 for the second violation in a one-year period;
- A fine not exceeding \$500 for the third and each subsequent violation in a one-year period.  
Each day that a violation occurs will be considered a subsequent violation.

#### **Section 13-68. Effective Date.**

The provisions of this ordinance shall become effective on Earth Day, April 22, 2018.

#### **Section 13-69. Severability.**

If any part or provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable.

## **Article 6 - Consumer Packaging (11/8/2017)**

### Section 13-91. Purpose.

It is in the best interests of the citizens and visitors to Bath to protect the environment and natural resources of the City of Bath and the State of Maine and the waterbodies within and surrounding the City by prohibiting the use and distribution of polystyrene food service ware and promoting and requiring the use of biodegradable, recyclable, and compostable alternatives.

Therefore, the purpose of this Ordinance is to ban the use of polystyrene foam food service ware in order to reduce litter, to minimize the impact on the City's landfill, reduce the necessity to manage litter and the impact of that litter, and reduce the expense to the taxpayers for cleanup and to reduce the environmental impact of the use of polystyrene foam food service ware.

### Section 13-92. Authority.

This ordinance is enacted under the Home Rule Authority of municipalities pursuant to the Constitution of the State of Maine, Article VIII, Part 2, Section 1, the provisions of Title 30-A M.R.S. Section 3001 et. Seq. as well as the general powers of municipalities to enact police power ordinances.

### Section 13-93. Findings.

- Polystyrene foam food service ware is not biodegradable and the litter that it causes does not decompose over time but remains in the natural environment.
- Polystyrene foam food service ware constitutes a significant adverse environmental impact. It creates problems for the City's waste management programs, litters the City's streets, parks, public places, and open spaces, clogs storm drains, culverts, and catch basins, and creates significant expense to remove the litter, while damaging terrestrial and marine habitats.
- National and international organizations have acknowledged the threat of chlorofluorocarbons to the earth's atmosphere and depletion of the ozone layer.
- Products which are degradable, recyclable, and compostable offer environmentally sound alternatives to the non-degradable and non-recyclable products currently used. The use of these products and the banning of polystyrene foam food service ware provides a lesser danger to the natural environment, resulting in less environmental damage and reduced costs.

### Section 13-94. Definitions.

As used in this article, the following terms have the following meanings:

*Biodegradable* means the entire product or package will completely break down and return to nature, i.e., decompose into elements found in nature, within a reasonably short period of time after customary disposal, and is consistent with the materials accepted at the composting facility used by the City of Bath.

*Disposable food service ware* means all containers, bowls, plates, trays, cartons, cups, and other items that are designed for one-time use and on, or in, which any restaurant or retail food vendor directly places or packages prepared foods or which are used to consume foods. This includes, but is not limited to, service ware for takeout foods and/or leftovers from partially consumed meals prepared at restaurants or retail food vendors.

*Food packager* means any person who places meat, eggs, bakery products, or other food in packaging materials for the purpose of retail sale of those products.

*Prepared food* means food or beverages that are served at the food vendor's location having been previously prepared elsewhere or are prepared at the vendor's location by cooking, chopping, slicing, mixing, brewing, freezing or squeezing. "Prepared food" does not mean raw uncooked meat or eggs. Prepared food may be eaten either on or off premises.

*Polystyrene foam* means and includes blown polystyrene and expanded and extruded foams (sometimes referred to as Styrofoam®, a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons. For the purposes of this chapter, the term "polystyrene" shall not include clear polystyrene known as "oriented polystyrene."

*Restaurant*, for purposes of this Article, means any establishment located within the City of Bath that sells prepared foods for consumption on, near, or off its premises by a customer.

*Retail food vendor* means any person, restaurant, store, shop, sales outlet or other establishment, including without limitation, a grocery store, convenience or variety store or a delicatessen located within the City of Bath which sells prepared foods.

#### Section 13-95. Prohibitions.

- (a) No retail vendor shall serve or sell prepared food in polystyrene foam containers and shall not package meat, eggs, bakery products or other food in polystyrene foam containers.
- (b) No food packager shall package meat, eggs, bakery products or other food in polystyrene foam containers.
- (c) The City shall not use polystyrene foam food or beverage containers at any City facility or

City- sponsored event.

- (d) No City department or facility shall purchase or acquire polystyrene foam food or beverage containers.
- (e) All parties who contract with the City shall be prohibited from using polystyrene foam food and beverage containers in City facilities or on City-funded projects within the City.

#### Section 13-96. Exemptions.

- (a) The sale and packaging of raw meat and live seafood is exempt from the provisions of this article.
- (b) Retail vendors, food packagers, City departments, City facilities and contractors shall be exempt from the provisions of this article, in a situation deemed by the City manager to be an emergency for the preservation of the public peace, health or safety.
- (c) Retail vendors that receive items, pre-packed in polystyrene foam food or beverage containers, packaged outside of the City of Bath, may re-sell items without repackaging those items.

#### Section 13- 97. Required biodegradable and compostable disposable food service ware.

- (a) All food vendors using any disposable food service ware will use biodegradable or compostable disposable food service ware unless they can show an affordable biodegradable or compostable product is not available for a specific application. Food vendors are strongly encouraged to provide reusable food service ware in place of disposable food service ware.
- (b) All City facilities will use biodegradable or compostable disposable food service ware unless they can show an affordable biodegradable or compostable product is not available for a specific application.
- (c) City contractors and vendors doing business with the City will use biodegradable food service ware in City facilities or on City projects within the City of Bath, unless they can show an affordable biodegradable or compostable product is not available for a specific application.

#### Section 13-98. Violations and enforcement.

The City Manager or his/her designee(s) shall have the responsibility for enforcement of this ordinance. If the City Manager determine(s) that a violation of this ordinance has occurred and is the first violation by the establishment within a one-year period, he/she shall issue a written warning notice to the food vendor that a violation has occurred. Subsequent violations of the Ordinance shall be subject to the penalties set forth below.

Violations of this Ordinance shall be punishable by fines as follows:

- A fine not exceeding \$250 for the second violation in a one-year period;
- A fine not exceeding \$500 for the third and each subsequent violation in a one-year period. Each day that a violation occurs will be considered a subsequent

violation.

Section 13-99. Effective date.

The provisions of this Ordinance shall become effective on Earth Day, April 22, 2018.

Section 13-100. Severability.

If any part or provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby, and shall continue in full force and effect. To this end, provisions of this ordinance are severable.



## **Chapter 14**

### **SEWERS\***

#### **Article 1. General Provisions**

- § 14-01. Definitions.**
- § 14-02. Conflict with other laws.**
- § 14-03. Damaging property prohibited.**
- § 14-04. Investigations; notice of violation.**
- § 14-05. Abatement of violation by city.**
- § 14-06. Liability for damages.**
- § 14-07. Penalty.**

#### **Article 2. Inspectors**

- § 14-08. Authority to enter premises.**
- § 14-09. Authority to obtain information on industrial processes; trade secrets.**
- § 14-10. Liability for injury to city employee or to property.**
- § 14-11. Entry onto easements.**

#### **Article 3 Use of Public Sewers**

- § 14-12. Deposition garbage; objectionable waste prohibited.**
- § 14-13. Discharge of wastewater into natural outlets.**
- § 14-14. Use of privy or septic tank.**
- § 14-15. Use of public sewers required.**
- § 14-16. Discharges into sanitary sewers prohibited.**
- § 14-17. Stormwater and unpolluted industrial water; discharge into storm drain.**
- § 14-18. Prohibited discharges into public sewers.**
- § 14-19. Certain discharges subject to city approval.**
- § 14-20. Requirements for approval.**
- § 14-21. Grease and oil interceptors.**
- § 14-22. Maintenance of preliminary treatment facilities.**
- § 14-23. Control manhole required.**
- § 14-24. Standards for testing.**
- § 14-25. Determination of standards for industrial wastes.**
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**\*Cross references-Building and electrical codes, Ch. 4A; housing, Ch.9; planning, Ch.12A; refuse, Ch.13; streets, Ch.15.**

## SEWERS

### CHAPTER 14. SEWERS ARTICLE 1. GENERAL PROVISIONS.

#### Sec. 14-01. Definitions.

(a) As used in this Chapter:

(1) **BOD** (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure as prescribed in "Standard Methods for the Examination of Water and Wastewater" in five (5) days at 20°C, expressed in milligrams per liter.

(2) **Building Drain** shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning eight (8) feet (2.73 meters) outside the inner face of the building wall.

(3) **Building Sewer** shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.

(4) **City** shall mean the City of Bath, Maine or any lawful representative of the city empowered to act in its behalf.

(5) **Cleanout** shall mean a means for inserting cleaning tools, for flushing, or for inserting an inspection light into sewers at bends.

(6) **Combined Sewer** shall mean a sewer intended to receive both wastewater and storm or surface water.

(7) **Easement** shall mean an acquired legal right for the specific use of land owned by others.

(8) **Floatable Oil** shall mean oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

(9) **Garbage** shall mean animal and vegetable waste from the domestic and commercial handling, preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(10) **Industrial Wastes** shall mean the wastewater from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

(11) **Natural Outlet** shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

(12) **Ph** shall mean the logarithm of the reciprocal of the hydrogen ion concentration, in grams per liter of solution.

(13) **Plumbing Inspector** shall mean the Plumbing Inspector of the City, or his authorized deputy, agent, or representative.

(14) **Properly Shredded Garbage** shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch (1.27 centimeters) in any dimension.

(15) **Public Sewer** shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(16) **Sanitary Sewer** shall mean a sewer which carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

(17) **Sewage Works** shall mean all facilities for collecting, pumping, treating and disposing of wastewater.

(18) **Sewer** shall mean a pipe or conduit for carrying wastewater.

(19) **Slug** shall mean any discharge of water, wastewater or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation, and shall adversely affect the collection system and/or performance of the wastewater treatment facility

(20) **Storm Drain** (sometimes termed "**Stormed Sewer**") shall mean a drain or sewer which carries storm and surface waters and drainage, but excludes wastewater and industrial wastes, other than unpolluted cooling water.

(21) **Superintendent** shall mean the Superintendent of the wastewater treatment facility of the City, or his authorized deputy, agent or representative.

(22) **Suspended Solids** shall mean total suspended matter that either floats on the surface of, or is in suspension in water, sewage or other liquids, and which is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as that fraction of sewage that is not soluble in water.

(23) **Wastewater** shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present. The alternate term is **sewage**.

(24) **Wastewater Treatment Facility** shall mean any arrangement of devices and structures used for treating wastewater.

(Sewer Ord., Art. II, 1/21/76.)

## **Sec. 14-02. Conflict with other laws.**

If a provision of this Chapter is found to be in conflict with any provision of zoning, building, safety or health or other ordinance or code of the City, the State, or the Federal Government existing on or subsequent to the effective date of this Chapter, that provision which in the judgment of the City establishes the higher standard of safety and protection of health shall prevail. (Sewer Ord., Art. XI, § 1, 1/21/76.)

**Sec. 14-03. Damaging property prohibited.**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater treatment facilities. Any person violating this Section shall be subject to immediate arrest under charge of disorderly conduct.  
(Sewer Ord., Art. X, § 1, 1/21/76.)

**Sec. 14-04. Investigations; notice of violation.**

The City, upon being informed in writing of a possible violation of this Chapter or on its own initiative, shall make or cause to be made an investigation of facts and an inspection of the premises where such violations may exist. After investigation, any person found to be violating or in violation of any provision of this Chapter shall be served by the City with a written notice stating the nature of the violation and providing a reasonable time limit, as determined by the City Manager, for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all such violations. (Sewer Ord., Art. IX, § 1, 1/21/76.)

**Sec.. 14-05. Abatement of violation by City.**

If, after notice and demand, the violation has not been abated within the time specified, the City may, in addition to other remedies available, institute appropriate action including an injunction to prevent, correct, restrain or abate any violation of this Chapter. The City or its agents shall have the authority to enter the premises, cause the violation to be abated, and recover any direct cost or expenses as provided for by the Maine Revised Statutes.  
(Sewer Ord., Art. IX, § 3, 1/21/76.)

**Sec. 14-06. Liability for damages.**

Any person violating any of the provisions of this Chapter shall become liable to the City for any expense, loss, or damage, occasioned by the City by reason of such violations.  
(Sewer Ord., Art. XII, § 1, 1/21/76.)

**Sec. 14-07. Penalty.**

Any person who fails to comply with the provisions of this Chapter other than those provisions pertaining to the payment of charges for services as established herein, and who shall continue any violation beyond the time limit provided for in Section 14-4 shall on conviction thereof, be punishable by a fine of not more than One Hundred Dollars (\$100.00) payable to the Maine District Court for the benefit of the City. Each day that a violation continues shall constitute a separate offense and each offense shall be punishable by a fine as aforesaid. (Sewer Ord., Art. IX, § 2, 1/21/76.)

**Sec. 14-08. Authority to enter premises.**

The City and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this Chapter.

(Sewer Ord., Art. VIII, § 1, 1/21/76.)

**Sec. 14-09. Authority to obtain information on industrial processes; trade secrets.**

Duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. An industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

(Sewer Ord., Art VIII, § 2, 1/21/76.)

**14-10. Liability or injury to City employee or to property.**

While performing the necessary work on private properties referred to in Section 14-8, duly authorized employees of the City shall observe all safety rules applicable to the premises. The owner shall be held harmless for injury or death to City employees, and the City shall indemnify the owner against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the owner and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the owner to maintain safe conditions as required in Section 14-41. (Sewer Ord., Art. VIII, § 3, 1/21/76.)

**Sec. 14-11. Entry onto easements.**

Duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to , inspection , observation, measurement, sampling , repair, and maintenance of any portion of the wastewater treatment facilities lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Sewer Ord., Art. VIII, § 4, 1/21/76.)

### **ARTICLE 3. USE OF PUBLIC SEWERS.**

#### **Sec. 14-12. Depositing garbage; objectionable waste prohibited.**

No person shall place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or objectionable waste.  
(Sewer Ord., Art. III, § 1, 1/21/76.)

#### **Sec. 14-13. Discharge of wastewaters into natural outlets.**

No person shall discharge into any natural outlet within the City, or in any area under the jurisdiction of the City, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with this Chapter.  
(Sewer Ord., Art. III, §2, 1/21/76.)

#### **Sec. 14-14. Use of privy or septic tank.**

When a public sewer is available, no person shall construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater, except as hereinafter provided.  
(Sewer Ord., Art. III, § 3, 1/21/76.)

#### **Section 14-15. Use of public sewers required.**

The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located a public sanitary sewer of the City, is required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Chapter and the Maine Plumbing Code, within one hundred eighty (180) days after the sewer is complete and ready for use. However, any owner of property which utilizes a septic system which meets all Code requirements and is functioning properly, shall not be required to connect to the City's public sewer, as long as that septic system remains in compliance with applicable Codes and does not malfunction. At any time that repair or replacement of the septic system is required or at any time that the system malfunctions, connection to the proper public sewer shall then be required. (Ord. 88-20)

#### **Sec. 14-16. Discharges into sanitary sewers prohibited.**

No person shall intentionally discharge or cause to be discharged any storm water, surface water, ground water, roof run-off, sub-surface drainage, uncontaminated industrial cooling water, or unpolluted industrial process waters into any sanitary sewer.  
(Sewer Ord., Art. VI, § 1, 1/21/76.)



#### **Sec. 14-17. Stormwater and unpolluted industrial water; discharge into storm drains.**

Stormwater shall be discharged into storm drains or into a natural outlet approved by the City or other regulatory agency. Unpolluted industrial cooling water or process waters may be discharged, on approval of the City or other regulatory agency, into a storm drain, or natural outlet. (Sewer Ord., Art. VI, § 2, 1/21/76.)

#### **Sec. 14-18. Prohibited discharges into public sewers.**

(a) No person shall discharge or cause to be discharged any of the following described waters or wastes into any public sewers:

- (1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- (2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment facility, including but not limited to: cyanide, heavy metals, strong acids and basic wastes;
- (3) Any waters or wastes having a Ph lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the sewage works; or
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to: ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders. (Sewer Ord., Art. VI, § 3, 1/21/76.)

#### **Sec. 14-19. Certain discharges subject to City approval.**

(a) No person shall discharge or cause to be discharged the following described substances, materials, water or wastes if it appears likely in the opinion of the City that such waters can harm either the sewers, wastewater treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the City will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment facility, degree of treatability of wastes in the wastewater treatment facility and other pertinent factors. The substances prohibited are:

- (1) Any slug of liquid or vapor having a temperature higher than one hundred forty (140°F) (60°C).
- (2) Any water or waste containing fats, wax, grease, or oils whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or

become viscous at temperatures above thirty-two (32°F) (0°C)..

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three fourth (3/4) horsepower (0,76 hp metric) or greater shall be subject to the review and approval of the City.

(4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(5) Any waters or wastes containing iron, chromium, copper, zinc, arsenic, cadmium, cyanide, lead, mercury, nickel, silver, and similar objectionable or toxic substances or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite wastewater at the wastewater treatment facility exceeds the limits established by the City or Federal effluent limitations for such materials.

(6) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the City as necessary, after treatment of the composite wastewater to meet the requirements of the State, Federal or other public agencies which have jurisdiction for such discharge to the receiving waters.

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable State and Federal regulations.

(8) Any waters or wastes having a Ph in excess of 9.5.

(9) Materials which exert or cause:

(A) Unusual concentrations of inert suspended solids, (such as, but not limited to, Fullers Earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);

(B) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);

(C) Unusual chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment facility;

(D) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein;

(E) Any water or wastes having a five (5) day BOD greater than three hundred (300) milligrams per liter;

(F) Any water or wastes containing more than three hundred fifty (350) milligrams per liter of suspended solids; or;

(G) Any water or wastes which, by interaction with other water or wastes in the public sewer system, releases obnoxious gases, formes suspended solids which interfere with the collection system, or creates a condition deleterious to structures and wastewater treatment processes.

(10) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment facility effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(11) Wastewater containing more than twenty-five (25) milligrams per liter of petroleum oil, non-biodegradable cutting oils, or product of mineral oil origin. (Sewer Ord., Art. VI, §4, 1/21/76.)

#### **Sec. 14-20. Requirements for approval.**

(a) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which contain the substances or **possess** the characteristics enumerated in Section 14-19 and which in the judgment of the City may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge ; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

(b) If the City or Federal effluent limitations require the pretreatment or equalization of waste flows, the design and installation of the structures and equipment shall be subject to the review and approval of the City, and subject to the requirements of all applicable codes, ordinances and laws. (Sewer Ord., Art. VI, § 5, 1/21/76.)

#### **Sec. 14-21. Grease and oil interceptors.**

(a) Grease, oil and sand interceptors shall be provided when in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be a type and capacity approved by the City, and shall be located so as to be readily and easily accessible for cleaning and inspection.

(b) Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gas tight, and water tight.

(c) In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal of the captured material and, shall maintain records of the dates and means of disposal which are subject to review by the City. Any removal and hauling of the collected materials not performed by the owner and/or his personnel must be preformed by a currently licensed waste disposal firm.

(Sewer Ord., Art. VI, § 6, 1/21/76.)

#### **Sec. 14-22. Maintenance of preliminary treatment facilities.**

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense. (Sewer Ord., Art. VI, § 6a, 1/21/76.)

#### **Sec. 14-23. Control manhole required.**

When required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters, and other appurtenances in the building sewer to facilitate observation, sampling , and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. (Sewer Ord., Art.VI, §7, 1/21/76.)

#### **Sec. 14-24. Standards for testing.**

All measurements, test and analyses of the characteristics of waters and wastes to which reference is made in this Chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken.) Normally, but not always, BOD and a suspended solids analyses are obtained from composites of all outfalls whereas pH's are determined from periodic grab samples. The duration of the period for the composite sample shall be determined by the City based on the operating cycle of the industrial concern. (Sewer Ord., Art. VI, § 8, 1/21/76.)

#### **Sec. 14-25. Determination of standards for industrial wastes.**

The City, with the advice of a consulting engineer, shall determine the quantity and quality of all industrial wastes which can be properly taken into the sewerage system and treated at the wastewater treatment facility, in addition to the sanitary wastewater from the City. (Sewer Ord., Art. VI, § 9, 1/21/76.)

#### **Sec. 14-26. Special agreements for industrial wastes.**

No statement contained in this Article shall be construed as preventing any special agreement or arrangement permitted by law between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore , by the industrial concern. (Sewer Ord., Art. VI, § 10, 1/21/76.)

**Sec. 14-27. Notification of City of change in volume or character of discharge.**

As required by Federal regulations, the City shall be notified at least forty-five (45) days prior to any proposed substantial change in volume or character of wastewater or pollutants discharged to the sewage works by any person.  
(Sewer Ord., Art. VI, §11 1/21/76.)

**Sec. 14-28. Disposal of septic tank wastes at City facility.**

The Wastewater Treatment Facility shall be open to receive septic tank wastes from residents of the City of Bath and from residents of other municipalities who may contract with the City of Bath for disposal of septic tank wastes generated by their residents. The Facility shall be open between the hours of 7:00 A.M. and 2:00 P.M., Monday through Friday, except holidays, for the purpose of receiving septic tank wastes, and; at such other times as the Superintendent may deem appropriate. There shall be a disposal fee which shall be paid, in the case of Bath residents, prior to bringing wastes to the Treatment Plant. In the case of other municipalities who contract with the City of Bath, said payment shall be the responsibility of the municipality and shall be paid in accordance with the terms of the contract. The charge for dumping septic tank wastes shall be set by resolution of the Bath City Council. The City of Bath further reserves, through the Superintendent of the Facility, the right to accept or reject all wastes.

**ARTICLE 4. BUILDING SEWERS.**

**Sec. 14-29. Licensed persons to work on sewer; permit required.**

No unauthorized person shall uncover, make any connections with or opening into, use, alter, repair or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. All work relating to the installation and repair of building sewers shall be performed by persons licensed for such work by the City, or homeowners who are doing work within the limits of their property, if approved by the City. (Sewer Ord., Art. V, § 1, 1/21/76.)

**Sec. 14-30. Cost of installation and connection.**

All costs and expense incident to the installation and connection of the building sewer, except where originally installed by the City, shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by his installation of the building sewer. (Sewer Ord., Art. V, § 1, 1/21/76.)

**Sec. 14-31. Separate sewers required; exception.**

(a) A separate and independent building sewer shall be provided for every building, except when one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard or driveway, the front building may be extended to the rear building and the whole considered as one building sewer. The

City does not and will not assume any obligation or responsibility or damage caused by or resulting from any such single connection.

(b) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City to meet all requirements of this Chapter. All costs of such tests shall be borne by the owner. (Sewer Ord., Art.V, §1, 1/21/76.)

#### **Sec. 14-32. Responsibility for maintenance.**

The owner shall be responsible for the maintenance and replacement of that portion of the building sewer running to a street line, or, if the connection to the public sewer is not within the street right-of-way, then to that connection. The City shall be responsible for maintenance and replacement of public sewers and private building sewers, to the extent that private sewers run under a City Street or Public Way. It is the purpose of this Ordinance to define the division line between areas of public responsibility and areas of private responsibility as the street line, or if the connection is not within a City Street, then at the connection with a public sewer.

The owner, however, shall continue to be responsible for the maintenance and replacement of any portion of a private line which is a force main, regardless of its location, and for the maintenance and replacement of private lift stations.

Maintenance shall not include services necessary due to clogged pipes, but applies only to maintenance required due to broken or damaged pipes. The owner shall be responsible for removal of such clogs in all pipes up to its connection with the City main.

#### **Sec. 14-33. Permits; classifications; application; fee.**

(a) There shall be two (2) classes of building sewer permits: (1) Residential and commercial service; and (2) Service to establishments producing industrial wastes.

(b) All applications for a permit must be made at the office of the Plumbing Inspector between the hours of 7:30 A.M. and 4:30 P.M. weekdays. A permit fee shall be paid for single residential buildings, commercial service,, multi-unit residences, and industrial buildings. A permit fee for each classification shall be determined by Resolution of the Bath City Council.

(c) A connection charge of One Hundred Dollars (\$100.00) shall be paid for each sewer connection permit in those instances where the City has already installed the building sewer to the street line. In all other cases, the full cost of connection shall be borne by the applicant, in addition to charges for sewer services established pursuant to Sections 14-18 to 14-28 of this Chapter. The connection charge may be amended from time to time by Resolution of the Bath City Council. (Ord. 8-24-88)

#### **Sec. 14-34. Permit issuance; revocation; renewal.**

(a) Permits will not be issued until the applicant has filed a layout plan showing the location of existing service connection, house location and route of sewer service, and the layout has been approved by the City.

(b) Permits will only be issued to drain layers licensed to lay drains in the City, and to homeowners qualified under Section 14-29. Permits are not transferable.



- (c) Permits shall be subject to revocation when any of the rules and regulations contained in this Chapter are not being followed.
  - (d) If the work under the permit is not completed within ninety (90) days, renewal of the permit must be obtained.
- (Sewer Ord., Art, V, § 2, 1/21/76.)

**Sec. 14-35. Drain layers license; insurance.**

- (a) Licenses to connect building sewers to the common sewers shall be issued to experienced and competent contractors. Licenses must be renewed annually on January 1. The fee for such license shall be One Hundred Fifty Dollars (\$150.00) payable to the City and the licenses shall be obtained at the office of the City Clerk. The fee amount may be amended from time to time by Resolution of the Bath City Council. (8/06/2003)
- (b) Drain layers doing work under this Chapter shall maintain minimum insurance coverage as follows:
 

Public Liability	\$100,000/\$500,000
Property Damage Liability	\$100,000/\$500,000

 and shall file a certificate of the same with the City.
- (c) Violation of the requirements of this Chapter shall be cause for revocation of any license and/or permits issued hereunder.

**Sec. 14-36. Specifications of material.**

- (a) Pipe and fittings to be used in the work shall be either asbestos-cement, extra-heavy cast-iron soil pipe or vitrified clay, six (6) inches or more in diameter.
- (b) In general , sewer services will not be allowed to have more than two (2) angle points, or a total angular deviation of more than one hundred eighty (180) degrees, unless granted a variance by the City. Cleanouts shall be installed at each deflection and/or every one hundred (100) foot length.
- (c) All services shall be laid in an envelope of washed, screened gravel with not less than six (6) inches of the material all around the barrel of the pipe. Maximum stone size shall be three-quarter (3/4) inch.
- (d) All pipe and fittings shall be laid to a minimum slope of one-fourth (1/4) inch per foot unless otherwise approved by the City.
- (e) The line and grade of the pipe and fittings shall be controlled by the use of a transit or batter boards and string lines set for this purpose. Batter boards shall not exceed a distance of thirty (30) feet apart unless otherwise allowed by the City. Batter boards are to be set by the contractor.
- (f) The trenches shall be excavated from the end of the existing sewer service to its point of connection to the building plumbing outlet. Pipe and fittings laid in trench shall not be backfilled until the work is inspected by the City.
- (g) Whenever possible, the building sewer should be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain may be lifted by a City approved means and discharged to the building sewer.
- (h) No person shall make connection of roof downspouts, foundation drains, areaway drains, or other surface runoff or ground water to a building sewer or building drain which in turn is connected



directly or indirectly to a public sanitary sewer unless such connection is approved by the City for purposes of disposal of polluted surface drainage. (Sewer Ord., Art. V, §4, 1/21/76.)

#### **Section 14-37. Rock excavation; use of explosives.**

(a) When ledge is encountered in the excavations, a permit must be obtained from the Fire Chief for the use of explosives.

(b) All blasting shall be done in accordance with the requirements of Chapter 8 and all Codes included therein by reference and with such other requirements as may be necessary and appropriate for safety purposes as imposed by the Fire Chief.

(c) All blasting must be done by a person licensed by the City of Bath for this purpose in accordance with applicable State Laws. In addition, a permit for each blasting occurrence must be obtained from the Office of the City Clerk in accordance with the Fee Schedule set forth in reference to Chapter 8 of the Code. In addition, proof of public liability and property damage insurance in the amount of \$500,000 minimum is required before issuance of a blasting permit.

#### **Sec. 14-38. Barricading of excavations.**

All excavations and obstructions shall be adequately barricaded and lighted at all times to protect the public from harm. (Sewer Ord., Art. V, §6, 1/21/76.)

#### **Sec. 14-39. Repairing surfaces disturbed during work.**

(a) Streets, sidewalks, parkways and other public property disturbed in the course of work shall be restored in a manner satisfactory to the City.

(b) Trenches shall be backfilled and compacted and the street surface repaired in accordance with requirements specified on the "Permit to Open Street", and in compliance with Article 3 of Chapter 15 of this Code.

(c) Power shovels, bulldozers, loaders, trucks and other equipment shall not be operated on or across sidewalks, berms, curbing, etc., until they have been properly protected from damage by Planking or other approved means. All damage resulting from the drain layer's operations shall be repaired by them.

#### **Sec. 14-40. Sewer connections in State highways.**

When making sewer connections in State Highways, the necessary Permits from the State Department of Public Works must be obtained prior to the issuance of a sewer connection permit. All work shall then be done in accordance with the requirements set forth in the permit from the State Department of Public Works. Any costs in connection therewith shall be borne by the applicant. (Sewer Ord., Art. V, §6, 1/21/76.)

#### **Section 14-41. Inspections.**

(a) The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made

under the supervision of the City or its representative. Requests for inspections of sewer service connections shall be made to the City before 4:00 P.M. on the day preceding installation of same.

(b) Inspections will be made only during normal working hours of the Plumbing Inspector.

(c) A charge for inspection shall be made in the amount of fifteen dollars (\$15.00). With an additional charge of ten dollars (\$10.00) to be made for inspections made before or after normal working hours. The charge for inspection may be amended from time to time by resolution of the Bath City Council.

(d) Services in excess of one hundred (100) feet in length are subject to review and such other requirements as may be found necessary to assure a functional connection.

#### **Sec. 14-42. Manner of installation.**

(a) In new construction, and where practicable in existing buildings when the common sewer is sufficiently deep, service shall be laid directly, with deflections, from the house plumbing vent stack to the connection provided at the common sewer.

(b) Tunneling shall not be allowed unless special permission for same is given.

(c) Connection made to the building plumbing system shall be upstream of any septic tanks or cesspools.

(d) Upon connection of the building plumbing system to the common sewers, existing septic tanks and cesspools shall be completely filled with suitable material to the satisfaction of the City.

(e) Connections shall not be cut into common sewers without permission.

(f) All pipe joint connections shall be watertight.

(Sewer Ord., Art. V, § 7, 1/21/76.)

### **ARTICLE 5. PRIVATE WASTEWATER DISPOSAL.**

#### **Sec. 14-43. When required.**

Where a public sanitary or combined sewer is not available under Section 14-15, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Article. (Sewer Ord., Art. IV, § 1, 1/21/76.)

#### **Sec. 14-44. Permit required.**

Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit from the City. The application for such permit shall be made on a form furnished by the City which the applicant shall supplement by any plans, specifications, and other information required by the Maine Plumbing Code. (Sewer Ord., Art. IV, §2, 1/21/76.)

#### **Sec. 14-45. Notification of inspection.**

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the City. The City shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the City when the

work is ready for final inspection, and before any underground portions are covered. The notification for inspection shall be made twenty-four (24) hours before the disposal system is to be inspected by the local Plumbing Inspector. (Sewer Ord., Art. IV, §3, 1/21/76.)

**Sec. 14-46. Compliance with State law required; discharge from septic tank.**

(a) The type, capacities, location, and layout of a private wastewater disposal system shall comply with all laws and regulations of the State of Maine, Department of Health and Welfare.

(b) No septic tank or cesspool shall be permitted to discharge to any natural outlet. (Sewer Ord., Art. IV, § 4, 1/21/76.)

**Sec. 14-47. Connection to public sewer.**

At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 14-15, a direct connection shall be made to the public sewer within one hundred eighty (180) days. Any abandoned holding tank and connection thereto shall be filled and sealed in accordance with the provision of the Maine Plumbing Code. (Sewer Ord., Art. IV, § 5, 1/21/76.)

**Sec. 14-48. Maintenance of disposal facilities.**

The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times at no expense to the City. (Sewer Ord., Art. IV, §6, 1/21/76.)

**Sec. 14-49. Licensed drain layer required.**

No private sewer or drain shall be laid or repaired except by an experienced drain layer licensed and approved by the City. The drain layer shall be held for any expense to the City on account of any imperfect work done by him or his employees. (Sewer Ord., Art. IV, §8, 1/21/76.)

**Sec. 14-50. Applicability.**

Nothing contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer of the City. (Sewer Ord., Art. IV, §7, 1/21/76.)

**ARTICLE 6. CHARGES FOR SEWER SERVICE.**

**Sec. 14-51. Betterment charges.**

(a) The owner of any house, building or other property used for human occupancy, employment, recreation or other purposes situated within the city and abutting on any street, alley, or right-of-way in which a public sewer has been installed after the effective date of this Chapter may pay to the City a betterment charge; provided that the structure or its existing individual on-site sanitary disposal system is within two hundred (200) feet of the public sewer. The betterment charge may be applicable whether the structure or its sanitary disposal system is connected to the public sewer or not.

In cases where a structure is beyond two hundred (200) feet of the public sewer, the owner may pay to the city a betterment charge when and if such structure or its individual on-site sanitary disposal system is connected to the public sewer system.

(b) The amounts of the betterment charges may be as established by the City from time to time. The betterment charges may be determined so that the total of such charges will not be greater than the actual net cost to the city of the wastewater collection system constructed by the city, including the portion of the building sewers in public streets and rights-of-way, the collecting sewers and other facilities required to convey the wastewater treatment facility of the city. Costs associated with the capacity of such facilities provided for expansion of the collection system to presently unsewered areas will be excluded from the current betterment charges. (Sewer Ord., Art. VII, § 1, 1-21-76) (Ord. 88-20 - 8-24-88)

#### **Sec. 14-52. Use charges.**

(a) Each user connected to the wastewater system shall pay a sewer user charge (sewer rental charge). From time to time, the Council, upon recommendation from the City Manager, shall establish by Resolution a schedule of rates for the sewerage system use charges together with any surcharges which may be applicable. The normal sewer user charges shall be based on water use wherever possible, but may include a minimum rate. If records of metered use are not available, or do not properly reflect the quantity of waste discharged, the sewer user charge shall be based upon estimated water use or an actual measurement of the volume of waste discharged into the sewerage system. In instances where it may be demonstrated by the User that water use readings do not reasonably reflect the quantity of waste discharged, and the User can further demonstrate that water is being deferred for other uses before being discharged into the waste system, the User may install a dedicated water meter the purpose of which shall be exclusively to measure the quantity of water consumed for those other purposes. Ninety per cent (90%) of the volume of such metered water used for other purposes and not discharged into the system, shall be subtracted from incoming water meter reading to arrive at the volume used for billing purposes. The type of meter to be installed and its installation, shall be with specific advanced approval of the City. All costs associated with the installation and proper maintenance of the meter shall be borne by the User without liability to the City. Meters which are currently installed and being utilized for measurement of water usage being diverted from discharge into the waste water system, may continue to be utilized for that purpose and need not be replaced. The homeowner/resident shall continue to notify the City with regard to meter readings at appropriate times. The City of Bath reserves the right to access the premises currently being served by these meters for the purpose of verifying readings, determining accuracy of the measurements and for any other purpose related to calculation of the user charge. This provision is intended to grandfather those meters which are now in use. Surcharges may be levied to users whose waste characteristics are above normal strength, the formula or other method for levying such surcharges to be established by Resolution of the City Council in the same manner as sewer user charges. In addition, the City Council, by Resolution, is also authorized to establish an interest charge for all sewer user charges or surcharges which have not been paid. If the billing is on a monthly basis, then the interest shall be assessed thirty (30) days from the date of billing; if the billing is on a quarterly basis, then the interest shall be assessed sixty (60) days from the date of billing. The said interest rate shall be set from time to time by Resolution of the City Council.

(Sewer Ord., Art. VII, 1-21-76; Ord. 11-10-76; Ord. 10-4-78; Ord. 9-23-92; Ord. 7-9-12)

(b) The sewer user charge shall be calculated so that the total of such charges will not be greater than the actual cost to the City of the operation and maintenance (including replacement) of the wastewater collection system and the wastewater treatment plant. No portion of the rate shall be calculated to include, nor shall funds raised through the user charge be used to separate the wastewater system of the City from the storm water system, nor to maintain, repair or replace the storm drain system of the City.

(c) In the event that the revenues received from the sewer user charge exceed the actual cost to the city for the operation and maintenance (including the replacement) of the wastewater collection system and wastewater treatment plant, then any such surplus shall be rebated to the user in such manner as the City Council, upon recommendation of the Finance Director, shall require by Resolution. The amount of such surplus is to be determined by the Finance Director and is not to include, under any circumstances, any monies included in the budget as a rate stabilization amount. (Sewer Ord., Art. VII, 1/21/76; Ord. of 11/10/76; Ord. of 10/4/78)

#### **Sec. 14-53. Billing; failure to pay; responsibility for payment.**

(a) Sewerage system use charges shall be billed periodically as determined by the city council, by resolution, upon the recommendation of the finance director. Where sewerage system rates, fees or use charges provided for herein are not paid within sixty (60) days, these rates, fees or charges shall be collected in accordance with Sections 4263, 4355, and 4453 to 4455 of Title 30, M.R.S.A.

(b) The sewerage system use charges herein established shall be collected from the owners, occupants and users of premises within the city from and after the effective date of this chapter. The ultimate responsibility for payment of such charges is upon the owner of such premises. (Sewer Ord., Art. VII, 1-21-76; Ord. of 11-10-76)

(c) Charges for use of the sewerage system may be abated by action of the Bath City Council. The abatement process and standards for abatements shall be in accordance with the procedure for infirmity or poverty abatements as indicated in 36 M.R.S.A. Section 841 and shall be specifically subject to the confidentiality provisions of Section 841(2)(E). (Sewer Ord. 9/20/00)

#### **Sec. 14-54. Impact fee.**

In instances where the development of any parcel of land within the City of Bath results in the need to construct, replace, upgrade, reconstruct, enlarge, or repair, any sewerage facility, including but not limited to any pipe, pumping station/ or treatment plant, or any stormwater drainage facility, then the costs of that activity shall be borne by the developer. The Bath City Council may waive such impact fee or portion thereof when it is deemed to be in the best interests of the City to do so. Development shall be any change in use of a parcel of land or the addition or replacement of any structures on a parcel of land.

### **ARTICLE 7. PRIVATE LIFT STATIONS**

#### **Sec. 14.55. Definition - private lift station.**

A private lift station shall be defined as a facility for the purpose of collecting sewerage and wastewater and conveying same under force into the City's public sewer through the use of pumps or

other similar devices.

**Section 14.56. Standards.**

The construction, repair and maintenance of any private lift station and any portion of any private wastewater disposal system connected thereto, shall be in conformity with standards promulgated by Resolution of the Bath City Council, which said standards may be from time to time amended by further Resolution of the Bath City Council.

## CHAPTER 15. STREETS

### ARTICLE 1. ELECTRIC WIRES AND POLES

- Sec. 15-1. Erecting electric wires and poles permit required.
- Sec. 15-2. Permit subject to conditions.
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#### ARTICLE 4. STREET ADDRESSING ORDINANCE

- Sec. 15-401. Purpose.
- Sec. 15-402. Authority.
- Sec. 15-403. Administration.
- Sec. 15-404. Naming Standards.
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- Sec. 15-406. Display of Location Identification Numbers.
- Sec. 15-407. New Construction/Locations.
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- Sec. 15-410. Appeal.

## **CHAPTER 15. STREETS.**

### **ARTICLE 1. ELECTRIC WIRES AND POLES**

Section 15-1. Erecting electric wires and poles; permit required.

No person shall erect or maintain or cause to be erected or maintained, any poles or other structure designed to support any wire or cable for the transmission of electric energy in any of the streets or public places in the City or attach any wire or cable to any building owned by the City, without first obtaining a permit from the City Manager and Council, on written application therefor, and after due notice and hearing, as required by law.

Section 15-2. Permit subject to conditions.

(a) All permits issued by the City Manager and Council pursuant to Section 15-1, shall be subject to the following conditions:

- (1) That no permanent rights shall be obtained in the streets or public places by reason of the continuous use of such poles or other structures, or of the wires and cables thereby supported;
- (2) That such poles, wires and cables shall be subject to change of location or removal, when deemed necessary for the public interests, on order of the City Manager and Council; and,
- (3) In case of fire, if necessary, such poles, wires and cables may be cut or removed by order of the Fire Chief or his designee without the owner or lessee thereof having any claim against the City thereof.

(b) All poles and other structures erected and maintained under the provisions of this Article shall be of such height, and be finished and painted in such manner as the City Manager and Council may prescribe.

Section 15-3. Liability of permittee.

Every person erecting, maintaining or using such poles, wires or cables, shall indemnify and hold the City harmless from and against all lawful claims and demands for injuries to persons or property occasioned by the existence thereof, or by the transmission of electric energy by means thereof. The erection, maintenance and use of such poles, wires and cables shall be deemed an assent on the part of the person so erecting, maintaining or using the same to all the provisions of this Article.

Section 15-4. Listing of poles and wires upon request.

Upon request of the City Manager and Council, every person operating electric or any other wires upon, over or under any street or building, shall within thirty (30) days thereafter, furnish to the City Manager and Council accurate lists of the locations of all poles, the number of cross-arms thereto affixed, and the number of wires thereto attached, the locations of sub-ways, manholes, and other information in relation to their methods, together with information as to where service is rendered, whether telegraphic, telephonic or electric lighting, specifying the type of lighting, or electric power.

#### Section 15-5. Authority to order shut off of electric power.

The City Manager shall have authority, whenever in his opinion the public safety demands it, to direct any person using or operating any such wires, to shut off the electric current therefrom for such period of time as he may deem necessary. The City Manager or his designee shall have authority, in case of fire, to order the current shut off from such wires as he knows or believes to be dangerous to life or property. No person shall refuse or neglect to shut off such current, when so directed by the City Manager or designee.

#### Section 15-6. Pieces or loose ends in public ways prohibited.

No person shall permit pieces of wire to be left on the surface of any street or sidewalk, or permit unused coils or loose ends of wires to remain attached to any poles or cross-arms for more than twenty-four (24) hours.

#### Section 15-7. Duty to place underground or in metal conduits; grounding low potential circuits.

- (a) Every person owning, maintaining or using wires above ground shall, when required by the City Manager and Council, take down and remove at their own expense all poles used as the support of such wires, and place such wires beneath the ground.
- (b) Whenever the laying of interior wires in metal construction in the fire district shall be deemed necessary by the City Manager and Council, all persons owning such wires shall install such wires in a form approved under the standards of the National Electrical Code, 1984 Edition, as published by the National Fire Protection Association.
- (c) All low potential circuits supplying current to consumers must be grounded at the transformer or at each service entrance to the buildings, and comply with the rules and standards of the National Electrical Codes, 1984 Edition, as published by the National Fire Protection Association. All expense of the above grounding shall be paid for by the person supplying the current.

#### Section 15-8. Use of poles by City.

The City shall have the exclusive use of the upper gain on all poles for the purposes of placing arms and wires thereon for municipal uses. Where an arc light is to be installed by the City, it shall have the use of such top of pole as is necessary to accomodate such lights.

#### Section 15-9. Crossing of high tension wires; distance between wires.

All wires carrying a current sufficiently powerful to be dangerous, shall, whenever they are crossed by an overhead wire, be brought to a junction pole of sufficient height to allow placing of all arms at least forty (40) inches apart. Such wires must be of sufficient cross section to withstand any arching of electricity or ordinary sleet storm.

## **ARTICLE 2. SNOW AND ICE.**

### **Section 15-20. Removal of snow and ice.**

(a) The tenant or occupant of any store, shop, dwelling house, manufactory, hotel or other building, or any vacant lot, bordering upon any sidewalk in the area designated as the Downtown Commercial District (C-I), and in case there shall be no tenant, the owner or any person having the care or control of any building or lot of land bordering upon the aforementioned streets, after the ceasing to fall of any snow, or in the daytime within four (4) hours and if in the night time before 10:00 A.M. of the following day, unless such following day be Sunday, shall cause the snow to be removed from such sidewalk. This provision shall be construed to extend to the removing of snow falling from any roof upon such sidewalk. No person shall be required to move any snow as aforesaid on Sunday.(Ord. 2/3/2016)

(b) Such tenant or occupant, owner or agent, whenever ice shall have formed upon any sidewalk, shall cause the ice to be removed or to be properly covered or strewed with sand or other suitable substance. (Ord. 2/3/2026)

### **Section 15-21. Depositing snow on streets and sidewalks.**

No person shall deposit or cause to be deposited any large body of ice, or heap of snow, in any street, sidewalk, lane or public square of the City, except on those streets as defined in Section 15-20. Any material plowed from driveways or from private property shall be disposed of without piling in a public way or on a sidewalk. It shall be the owners responsibility to see to the proper disposal of the plowed material.

### **Section 15-22. Penalty.**

Any person violating any of the provisions of Section 15-20 and Section 15-21 of this Article, in the initial instance, shall be issued a written warning. Any second or subsequent violation shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00) payable to the order of the City of Bath. Each day that such violation is permitted to continue shall constitute a separate violation. (Ord. 2/3/2016)

### **Sec. 15-23. Snow or Ice Threatening Use of Public Streets or Sidewalks.(Ord. 2/3/2016)**

A. Applicability: The following provisions shall apply to all property owners with buildings or structures that abut the public sidewalks and/or streets, or are in proximity to public sidewalks and/or streets such that falling ice or snow falling from the building or structure would fall on the public sidewalks and/or streets.

B. Duty to Remove: When an accumulation of snow or ice on a building or structure poses the threat of falling onto public sidewalks and /or streets, it shall be the duty of the property owner to cause the removal of such accumulations in order to make passage along sidewalks and/or streets safe and convenient and to eliminate any danger from falling ice or snow to pedestrians, vehicles, and/or personal property.

C. Commencement of Duty, Notice: Such removal shall take place either: (1) whenever a threatening condition occurs; or (2) within twenty-four (24) hours after the Code Enforcement Officer or his/her designee has verbally or in writing given notice as provided below of the condition and ordered the removal of such accumulations, whichever occurs first. Whenever snow or ice accumulates in such a manner as to hang over a street or sidewalk, such a condition shall constitute prima facie evidence that the condition is a threatening condition. A determination by the Code Enforcement Officer or his/her designee that an accumulation of snow or ice is a threatening condition shall be conclusive and not subject to challenge or appeal until after the building owner has removed the snow or ice. Notice shall be given to the owner or to an owner's agent who has maintenance responsibility for such building. The record owner of each such building shall be the owner as appears in the records at the Sagadahoc County Registry of Deeds.

D. Failure to Remove: In instances where the owner has not caused the removal of the accumulated ice and snow, then the Code Enforcement Officer or his/her designee may arrange for the removal of snow and ice accumulations which exists in violation of subsections (B) and (C) above in order to eliminate any danger to pedestrians, vehicles and/or personal property.

E. Enforcement; Penalties:

(1) This Article shall be enforced by the Code Enforcement Officer and/or his designee.

(2) The City Manager may declare a delay of enforcement of this Article. Such a declaration shall be for the purpose of giving property owners additional time to clear their ice or snow from buildings upon which ice or snow has accumulated, or for such other good cause shown. Any such declaration shall be reduced to writing as soon as practicable thereafter, stating the reasons therefore. Such declaration shall be communicated to such representatives of the communications media as the city manager may direct.

(3) Pursuant to 30-A M.R.S.A. § 3007, after a building owner or lessee has been given one (1) notice and order under subsection (C) above and failed to comply and the City has removed the snow or ice, or when a building has been the subject of three (3) or more notices within an eighteen-month period, the Code Enforcement Officer or his/her designee may require the owner of a building to install roof guards, or take other measures approved by the Code Enforcement Officer or his/her designee, at the owner's expense to prevent the fall of snow or ice.

(4) The penalty for an offense shall be two hundred fifty dollars (\$250.00), plus attorney's fees and costs. When the City removes or arranges for the removal of snow or ice accumulations, the owner shall also be charged the costs of removal, plus a ten (10%) percent charge for administration. A separate bill for each such removal shall be submitted to the record owner of the building as soon as practicable after the charges have been incurred.

(5) Liens. In addition to other collection methods authorized by law, and the penalties provided herein, charges assessed pursuant to this Article shall be enforceable by lien for the benefit of the City. If the penalties, assessments and costs are not paid within thirty (30) days of notice to the owner of the amount due, then the non-payment shall be provided to the Tax Collector who shall collect the amount as part of the next year's ad valorem property taxes for the property. In addition, a notice of lien may be filed in the Sagadahoc County Registry of Deeds.

F. Liability: Where there is a failure of the owner after notice to remove the accumulated ice or snow from a building or structure pursuant to this Article, and the City must perform the removal, then the City shall be held harmless from any form of liability with regard to the removal

### **ARTICLE 3. EXCAVATIONS AND STREET OPENINGS (12/18/02)**

#### **Section 15-31. Purpose.**

The purpose of this Article is to regulate excavation on public property, and in public rights-of-ways and streets including sewer and storm water easements in the interest of protecting public safety and convenience, and to protect and allow for the operation of public infrastructure. Excavation and restoration standards set forth herein or referred to herein are deemed to be necessary to protect the use and operation of public property, and public streets and rights-of-ways and to preserve and protect their integrity, operational safety, and function.

#### **Section 15-32. Scope of Article.**

The requirements defined herein shall apply to all new facilities and any additions, alterations, adjustments, relocations or replacements of existing facilities within the limits of public property, and in public rights-of-ways and streets and including City sewer and storm water easements. Unless specifically stated otherwise, this policy is not intended to require the adjustment of existing facilities that do not constitute a safety hazard to the public or do not conflict with the use, construction or maintenance of public property, and public rights-of-ways and streets. Notwithstanding the foregoing, the duties and responsibilities set forth in this Article apply to all facilities, whether existing or proposed.

#### **Section 15-33. Administration.**

The City official responsible for the administration of this Chapter shall be the Public Works Director. Any and all duties and obligations incurred to that administration may be delegated.

#### **Section 15-34. Definitions.**

The following words and phrases, when used in this Article, shall have the meanings respectively ascribed to them. All other words and phrases not defined herein, shall be ascribed their normal and customary meaning:

*Dig Safe* shall mean the “Underground Protection of Facilities Act,” commonly known as the Dig Safe law, found at 23 MRSA § 3360-A.

*Director* shall mean director of public works and/or designee.

*Edge of Traveled Way* shall mean the outer edge of the outmost lane intended for vehicular traffic and exclusive of shoulders, turning lanes or climbing lanes.

*Emergency* shall mean any event which may threaten public health or safety, including, but not limited to, damaged or leaking water or gas conduit systems, damaged, plugged, or leaking sewer or storm drain

conduit systems, damaged underground electrical communications facilities, or downed or seriously damaged overhead pole structures.

*Excavation* shall mean any operation in which earth, rock, or other material below the ground is moved or otherwise displaced, by means of power tools, power equipment or explosives and including grading, trenching, digging, ditching, drilling, augering, tunneling, scraping and cable and pipe driving, except tilling of soil or gardening or displacement of earth, rock or other material for agricultural purposes, and except installation and maintenance of sign performed by the City or Department of Transportation.

*Facility* shall mean pipe, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire tower, pole, pole line, anchor, cable, junction box, or any other material, structure, or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed or maintained in, upon, along, across, under, or over any public way or place.

*Guarantee Period* shall mean a minimum two (2) year period of time from completion of construction for which the permittee will be responsible for making any repairs to the excavation. In instances, due to the extent, depth, location or other factor relating to the construction warrant, the guarantee period may be extended by the Public Works Director upon notice to the permittee prior to completion of construction, for an additional period of time not to exceed a total of four (4) years.

*Newly constructed, reconstructed or rehabilitated streets* shall mean any street which has been newly constructed, reconstructed or rehabilitated for a period of five (5) years from the completion of the new construction, reconstruction or rehabilitation.

*Paved Area* shall mean an area with a paved surface of material such as hot-mixed asphalt, concrete, brick, cobblestone, or granite pavers. These areas are typically referred to as streets, driveways, alleys, sidewalks or walkways.

*Person* shall mean any natural or corporate Person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a limited liability company, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

*Pole placement* shall mean an excavation associated solely with a single placement or replacement of a utility pole.

*Public place* shall mean any public street, way, place, alley, sidewalk, park, square, plaza, or any other similar public property owned or controlled by the City and dedicated to public use, and any dedicated-but-unaccepted street or way.

*Rehabilitation* shall mean that activity of work on any street which provides structural improvement having a minimum service life of fifteen (15) years with minor maintenance, which includes pavement overlay of one and one-half (1 ½) inches minimum depth, and partial or full depth reconstruction.



*Rules and regulations* shall mean the rules and regulations promulgated under Section 15-34 of this Article.

*Substructure* shall mean any pipe, conduit, duct, tunnel, manhole, vault, buried cable, or wire, utility system appurtenance, or any other similar structures located below the surface of any public place.

*Technical and design standards* and guidelines shall mean the standards and guidelines promulgated by the Public Works Director or designee as part of the rules and regulations required under Section 15-35 of this Article.

*Traveled Way* - That portion of a public rights-of-way or street designated for the use of vehicular traffic excluding any shoulders, sidewalks or parking spaces.

*Utility* shall mean every public or private entity operating telephones or transmitting television signals; every public or private entity that owns, controls, operates or manages any pipeline within or through this State for the transportation as a common carrier for hire of oil, gas, gasoline, petroleum or any other liquids or gases; every public or private entity making, generating, selling, distributing and supplying gas or electricity; every water or sewer company, district or system owned or operated by a public or private entity; every municipally owned or operated fire alarm, police alarm or street lighting circuit or system; every cooperative organized under chapter 35 (Title 35-A MRSA); and any other public or private entity engaged in telecommunications or the transmission of heat, or electricity. [35-A MRSA §2501] For the purposes of this policy, this definition incorporates entities beyond those defined as a "Public Utility" in Title 35-A MRSA and is not intended to affect the applicability of that definition for purposes beyond the scope of this policy.

#### Section 15-35. Rules and Regulations.

The Public Works Director shall establish rules and regulations governing excavations at all public places within the limits of the City of Bath. These rules and regulations shall contain technical and design standards and guidelines regarding the methodology under which excavations are undertaken and restoration of the excavated areas are accomplished. They may also contain any other provisions necessary and appropriate to the implementation of this Ordinance.

#### Section 15-36. Permit Required/Fees.

No person or utility shall make any excavation, modify, or fill any excavation, excluding a previously permitted location, in any public place which shall include all City sewer and storm water drainage easements without first obtaining a permit to do so from the City except as otherwise provided in this Article or the rules and regulations. Any excavation within the City's streets, sidewalks, esplanades or other public rights-of-way including City sewer and storm water drainage easements shall only be permitted in accordance with this Article or the rules and regulations. The granting of such a permit shall cover all required activities and mandate conformance with this Article and the rules and regulations. The fee for the permit required under this Section shall be set at fifty dollars (\$50.00). This fee may be subsequently amended and reestablished by Resolution of the Bath City Council. (Ord.9/3/14)

## Section 15-37. Applications.

Prior to the issuance of the permit required in Section 15-36 above, and prior to any excavation work or activity taking place, there shall be submitted to the Public Works Director or designee an Application containing such information in sufficient detail of the project to permit review without the need of a site visit. At the time of submission of an application, the Public Works Director or designee shall verify that the applicant has provided evidence of insurance coverage in accordance with the requirements of Section 15-49.

A. **Application Without Plans.** Where the Application is of a nature not to require plans, the Application must, at a minimum, contain information that designates the specific location of the excavation, a description of the proposed installation, repair or renovation, the nature of the excavation in terms of its depth or height. Each location and proposed installation shall be stated separately.

B. **Application With Plans.** For larger projects, and for those projects deemed to be of a nature where plans are required by the Public Works Director, supporting plans shall be submitted with the Application. The plans shall contain the following:

(1) **General Location.** The purpose of the general location (or permit area) description is to fix the location along the highway, to identify the highway system and to determine the licensing authority. The location shall be established by reference to a town line, readily identified intersection, major stream crossing, railroad crossing, or bridge number.

A general location map is required and shall be tied to the highway system. The map may be a photocopy of a portion of an accurate area map or sketch traced from such a map.

(2) **Proposed Installation.** Describe the immediate proposed installation and the ultimate reasonable replacement or addition, which may be anticipated without seeking a new permit. Indicate the size, type and purpose of pipes, poles, voltage and phase of electrical line, number of cables or strands, etc. Mention hydrants, services, protective and supporting equipment and associated appurtenances or any other proposed utility not listed above.

In urban or congested areas, the proposed installation should be in compliance with the existing Municipal Construction Standards. If not, the Application should be accompanied with a statement indicating reasons for non-compliance.

(3) **Specific Location Plan.** The specific location plan or sketch shall show the location of the principal units of the installation. Longitudinal distances between control points, bends, manholes, poles, etc. shall be given. Offset distances from the highway centerline, edge of pavement, curb or other well-defined applicable reference shall be given. Offsets shall be to the centerline of underground installations. Offsets shall be in feet and inches to the near side of poles, hydrants, etc., which are less than 10 feet from the face of curb or outer edge of shoulder. The safety minimum offset for the location is acceptable for all poles, which will be at, or beyond that offset. Edge of traveled way or assumed Right of Way lines, and other pertinent highway features shall be indicated.

A separate specific location plan shall be submitted for each proposed installation. No more than two highways should be shown on one sheet.

(4) Supporting Data. The application should contain or be accompanied by a statement indicating:

That a copy of the application has been given to the municipal officers.

The newspaper in which the application will be published.

Any proposed joint use or ownership of the facility.

Any existing facility or permit of the applicant at this location.

Any existing facility of others with which the proposed installations may conflict.

Personnel available to review proposed locations at the site, by name, address and telephone number.

An as-built survey of the Utility post construction to a scale of 40' = 1" on a 24" X 36" Vellum must be provided. A digitized electronic drawing file copy on a 3 ½ inch floppy disk or CD will be required for larger projects as determined by the City. The Director shall approve the format of the digitized file drawing.

(5) Utilities. Natural gas pipeline utilities and natural gas utilities shall also provide maps of existing substructures and shall meet all other requirements in 23 M.R.S.A. § 3360-A(3-C) as those requirements may be amended from time to time.

C. Submission of As-Built Drawing. Within sixty (60) days of the completion of an excavation, there shall be submitted to the City an as-built survey of the installation, renovation or repair, depicting all post-construction conditions, to a scale of not less than 1" = 50'. A digitalized electronic drawing file copy, in an appropriate format acceptable to the Public Works Director, will be required for larger projects as may be determined by the Director.

D. Notices. Prior to the issuance of any Permit, and the commencement of any excavation activities, the Applicant shall certify to the Public Works Director that all notice requirements pertaining to the type of excavation work to be undertaken, have been met, all proper parties notified, and all time frames regarding notice have been met. Compliance with notice requirements shall be the sole and exclusive responsibility of the Applicant.

E. Dig Safe. Prior to the issuance of a Permit under this Article, the Applicant shall demonstrate to the Public Works Director or designee that all requirements of the Maine "Dig Safe" Law, 23 M.R.S.A. § 3360-A have been met.

F. Denial; Revocation. The Director shall have the right to deny any permit application where the area is considered newly constructed, reconstructed or rehabilitated, the excavation is proposed between November 15<sup>th</sup> and April 15<sup>th</sup>, where a significant public hazard would be a result of the excavation, or where the Applicant has demonstrated an inability to meet the requirements of this Ordinance and the rules and regulations promulgated hereunder. The Director shall have the right to revoke a permit that has been issued under this Article where a public safety hazard has been created, where the excavation activity is being conducted in a manner which violates any of the terms and conditions of this Article or the rules and regulations promulgated hereunder, or for any other just cause. Upon issuance of an Order of Revocation, all work on the excavation shall cease except work specifically

designated by the Director to cure a safety hazard, or to provide a location that will be safe to the general public and vehicular and pedestrian traffic.

G. Other Permits. The issuance of a permit under this Article, shall not be deemed, or imply that it is in lieu of or constitutes a waiver of any other City permit requirements under this Chapter or any other City Code.

#### Section 15-38. Emergency Action.

When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the City shall have the full power to order, at the time the permit is granted, that a crew and adequate facilities be employed by the permittee beyond normal working hours, including up to twenty-four (24) hours a day, to the end that such excavation work may be completed as soon as possible.

Nothing in this ordinance shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe which may be a threat to life or property, or for making emergency repairs, provided that the person making such excavation shall apply to the City for such a permit on the first working day after such work is commenced. Before any excavation work is started, the person or utility excavating must contact Dig-Safe and all utilities that may be located near the excavation site.

#### Section 15-39. Preservation of Monuments.

Any monument set for the purpose of locating or preserving the lines of any street or other private property, property subdivision, or a precise survey reference point, or a permanent survey bench mark within the City, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the City to do so. Permission to remove or disturb such monuments, reference points or benchmarks shall be granted only when no alternate route for the proposed substructure or conduit is available. If the City is satisfied that no alternate route is available, permission shall be granted upon condition, by an agreement in writing, that the person or utility applying for such permission shall pay all expenses incident to the proper replacement of this monument by the City.

#### Section 15-40. Hours of Excavation.

Under normal construction circumstances, construction activity shall not begin earlier than 7:00 a.m. nor continue beyond 7:00 p.m. of any regular business day. Under circumstances where emergency conditions exist, where there are safety hazards or concerns, or where the construction needs to be completed without delay, the Public Works Director may authorize work outside the specified time period. Neither construction work nor excavation work shall not occur on Sundays, holidays or on major holiday weekends, unless expressly authorized by the Public Works Director or as needed to address an emergency situation.

#### Section 15-41. Restrictions on Excavation.

A. Winter Excavations. No person or utility shall be granted a street opening permit or open any paved area from the time of November 15<sup>th</sup> of each year to April 15<sup>th</sup> of the following year unless an emergency or special condition exists and permission is obtained in writing from the City.

Any person or utility wishing to obtain a street opening permit between these aforementioned dates shall first explain fully in writing the emergency situation or special condition existing to the City before a permit application will be considered for approval. If an emergency condition which could endanger life or property exists, excavation work shall not be delayed by this section; however, a written explanation shall be delivered to the City as part of the street opening permit application made in accordance with Section 15-37. In the rare event that a non-emergency permit is issued between the aforementioned dates for an excavation permit into a paved area, a moratorium surcharge of five hundred dollars (\$500.00) will be added to the regular permit fee. This moratorium surcharge may be waived by the Director if specific weather conditions exist and paved area restorations are in compliance with normal construction season standards, as described in the rules and regulations.

For the purpose of this Section, an emergency shall be defined as one (1) of the following: damaged or leaking water or gas conduit systems, damaged, plugged or leaking sewer or storm drain conduit systems, damaged underground electrical and communications facilities, or downed or seriously damaged overhead pole structures; all remaining excavations will be considered non-emergency situations and may only be authorized upon written documentation of special circumstances.

B. Newly Constructed, Reconstructed or Rehabilitated Streets. The Public Works Director reserves the right to deny an application for any street or public way that has been constructed, reconstructed or rehabilitated within a five (5) year period as provided in 23 M.R.S.A. § 3351 and as that Section may be amended from time to time. Any excavations into such streets shall be subject to moratorium restoration requirements as set forth in 23 M.R.S.A. § 3351-A as may from time to time be amended. Where excavation is permitted within the five (5) year period, the full width of the road surface on both side of the cut for a distance of ten (10) feet from the outside edge of the disturbed pavement shall be relaid. Such restoration shall comply with applicable technical and design standards and guidelines in the rules and regulations promulgated by the Public Works Director.

#### Section 15-42. Performance Standards.

The following general performance standards shall apply to all excavations permitted under this Article:

A. Noise, Dust and Debris. Each excavator shall conduct and carryout excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. To the fullest extent practicable, the excavator shall take appropriate measures to reduce noise, dust and unsightly debris in the performance of the excavation work.

B. Preservation of Curbing. No person or utility shall remove, damage, haul away or cause misalignment of any curbing, including radius curb and catch basin stones, for any reason whatsoever without first receiving written permission from the City. Any curb missing, damaged or misaligned shall be replaced or aligned by the City and will be charged to the permittee; provided, however that the City,

at its option, may allow the permittee to replace or realign that portion of curb damaged by the permittee's excavation. In such event, replacement or realignment shall be done in a manner and under specifications prescribed by the City and subject to inspection by the City and shall be completed within a period of thirty (30) days after such authorization to complete such work. If such replacement or realignment is satisfactory to the City, all charges therefore except for permit fees, long-term maintenance reserves, if applicable, and City inspection charges, will be canceled. The permittee shall, for a period of three (3) years thereafter, be fully liable for all defects in materials and workmanship relating to such replacement or realignment and shall promptly repair or replace the same upon notice from the Public Works Director or designee and to the satisfaction thereof.

C. Manholes and/or Catch Basins. No person or utility shall remove, damage, haul away, or otherwise disturb any manhole and/or catch basin castings, frames, and/or covers owned by the City without first receiving written permission from the City. Any manhole and/or catch basin castings, frames and/or covers missing, damaged, or disturbed shall be repaired and/or replaced by the City, and the cost will be charged to the permittee.

D. Restoration of Paved Areas. All paved area restorations, including temporary and permanent work within any street, driveway or sidewalk shall be performed in accordance with the City's Code of Ordinances and technical and design standards and guidelines available through the Public Works Director, and according to the rules and regulations promulgated by said Director pursuant to Section 15-35 of this Article. The Director may choose to waive specific repair requirements for just cause, including utility work being conducted prior to or in conjunction with a planned City/MDOT construction project.

E. Protection of Public Property. The permittee shall not remove, even temporarily, any trees or shrubs which exist in a public place without first obtaining the consent of the appropriate City Department or City Official having control of such property.

F. Prompt Completion of Work. After an excavation is commenced, the permittee shall carry out with diligence and expedition all excavation work covered by the street opening permit and shall promptly complete such work and restore the street or sidewalk as specified in this Article and the rules and regulations enacted by the Public Works Director. The permittee shall perform such restoration work so as not to obstruct, impede or create a safety hazard to public travel.

#### Section 15-43. Relocation and Protection of Utilities.

The permittee shall not interfere with any existing facility without the written consent of the City and the owner of the facility. If it becomes necessary to relocate an existing facility this shall be done by or with the written consent of its owner. No facility owned by the City shall be moved to accommodate the permittee unless the cost of such removal work be borne by the permittee. The cost of moving privately owned facilities shall be similarly borne by the permittee unless it makes other arrangements with the person or utility owning the facility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across the work. The permittee shall secure approval of method of support and protection from the owner of the



facility. In case any of the pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure, the permittee shall promptly notify the owner thereof. All damaged facilities shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee. It is the intent of this section that the permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such facility damage and such assumption of liability is a contractual obligation of the permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility. The City shall not be made a party to any action because of this section. The permittee shall inform itself as to the existence and location of all underground facilities and protect the same against damage in accordance with 23 M.R.S.A. § 2260-A as may be amended from time to time.

#### Section 15-44. Ownership of Material.

Any material excavated from a City street, public way or other public place shall remain the property of the City of Bath unless otherwise determined by the Public Works Director. The material shall be disposed of in a manner and at a location determined by the Public Works Director and shall be indicated on the Application.

#### Section 15-45. Repair to Damaged Facilities; Corrective Action.

A. Repairs. The Public Works Director shall notify any excavator that any public facility or property or the property of any utility has been damaged by the excavation activity. That damage shall be repaired in accordance with a time frame determined by the Public Works Director. Failure on the part of any excavator to make the required repairs may result in the City utilizing the corrective action procedures in Subparagraph B below.

Corrective Actions. If any part of any excavation, including the excavation, backfilling and repairs fails to conform with the standards of this Chapter and the rules, the City shall notify the permittee and require the appropriate corrective actions to be undertaken. Permittee shall take corrective action within twenty-four (24) hours after the issuance of notice if the failure could trigger tort liability or liability for street defect, as defined in 23 M.R.S.A. § 3651 et seq., as amended from time to time. In all other instances, the permittee shall have a reasonable time to undertake corrective action.

If the permittee fails to respond within the required time period, the City shall cause the necessary repairs to be accomplished, and shall keep an account of the expense thereof, and in such case the permittee shall be billed an amount equal to one hundred fifty (150) percent of the whole of the expense incurred by the City. Bills rendered in accordance with this Section shall be due and payable by the permittee immediately upon receipt. The City shall issue no further or new permits to the permittee until full payment of the billed costs has been received.

If for any reason the City has to perform repair work to an excavation after the permittee's guarantee period has started, that guarantee period shall start over again upon completion of the repairs.

#### Section 15-46. Inspections.



- (a) The City shall make such inspections as are reasonably necessary in the enforcement of this Article and the rules and regulations.
- (b) The Public Works Director may order such actions as it deems necessary to ensure that this Article and the rules and regulations implementing it are not violated.
- (c) In the event that any dispute exists as to the amount, nature, or scope of the work required under this Article or the rules and regulations, the decision and judgment of the responsible City Official will be final and binding unless appealed to or stayed by a Court of competent jurisdiction.

#### Section 15-47. Testing Requirements.

The City may order a test (at its own initial expense) on any subsequent restoration of a street excavation in order to determine if the work has been or is being completed in accordance with City specification and regulations. If the test shows the street restoration phase or phases to be in material violation of this Article and the rules and regulations, the permittee shall pay the cost of the testing and all required subsequent tests to verify the proper restoration in accordance with this Article and the rules and regulations.

#### Section 15-48. Traffic Control.

- (a) Safe crossings. The permittee shall in general maintain safe crossings for two (2) lanes of vehicle traffic where possible and safe crossings for pedestrians at intervals of not more than two hundred (200) feet. If any excavation is made across any public street, alley or sidewalk, adequate crossings shall be maintained for vehicles and for pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least forty-eight (48) inches in width shall be maintained along such sidewalk line.
- (b) Barriers and warning devices. It shall be the duty of every permittee cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices necessary for safety of the general public. Traffic control in the vicinity of all excavations affecting vehicular, pedestrian and other traffic shall be subject to final review and approval of the Public Works Director. Barriers, warning signs, lights, etc., shall conform to the latest edition of the "Manual of Uniform Traffic Control Devices" (MUTCD). Warning lights shall be electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement, but not replace light sources.
- (c) Normalizations of traffic conditions. The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.

- (d) Closing of streets. When traffic conditions permit, the Public Works Director, with the approval of the police and fire chiefs of the City, may by written approval (or by verbal approval in the case of emergency), permit the closing of streets and alleys to all traffic for a period of time prescribed by him or her, if in his or her opinion it is necessary. The written approval of the Public Works Director may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given. In case of emergency during non-business hours, the utility company having such emergency shall contact the police and fire departments by phone before closing a street to traffic.
- (e) Warning signs to channel traffic. Warning signs shall be placed in accordance with the applicable section of the most current edition of the MUTCD in advance of the construction operation to alert traffic within a public street, and cones or approved devices shall be placed to channel traffic, in accordance with the instructions of the Public Works Director and/or Police Chief, after his or her review of the proposed traffic control measures for the project.
- (f) Special police protection for interference with school walk route map. The permittee shall hereby be informed that the City has or may have a "school walk route map," and that the Public Works Director will require special police protection at locations where the permittee, by his or her work, interferes with these designated school walk routes or crossing locations. Copies of school walk route maps for various locations in the City may be procured from the Public Works Department.
- (g) Interference with arterial streets. Construction activities (unless an emergency condition exists) shall not interfere with the normal flow of traffic on arterial streets of the City. A list of arterial streets shall be kept at the offices of the Public Works Director. The full inbound roadway lane width shall be maintained between the hours of 7:00 a.m. and 9:00 a.m. and the full outbound roadway lane width shall be maintained between the hours of 3:30 p.m. and 6:00 p.m.
- (h) Shifting traffic to opposite side. The permittee may shift traffic to the opposite side of the roadway to maintain the above required lane width. The permittee may only make such shift with the approval of the Public Works Director following proper review of detour plans to insure adequate safe two-way traffic flow and proper number and placement of traffic control devices, including flaggers and/or police officers.

#### Section 15-49. Liability of City/Insurance.

This Article shall not be construed as imposing upon the City or any official or employee any liability or responsibility for damages to any person injured by the performance of an excavation work for which a street opening permit is required under this Article, nor shall the City or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the approval of any excavation work. In the case of a dedicated-but-unaccepted street or way, this Article shall not be construed as authorizing any action which is inconsistent with any private rights in said street or way, nor shall the issuance of any permit hereunder be construed as an acceptance of said street or way by the City for highway or any other purposes. For purposes of this Section, every permittee shall maintain at all times comprehensive general liability and property damage insurance coverage in a suitable amount, not less than four hundred

thousand dollars (\$400,000.00), protecting himself, his agents and the City from all such claims for damages or injuries. All such insurance shall include, without being limited to, endorsements for completed operations and special hazards/underground collapse, and shall be primary to any insurance or self-insurance of the City. Evidence of such coverage shall be a condition precedent to the issuance of any license/permit hereunder and shall be submitted in a form satisfactory to the Public Works Director.

#### Section 15-50. Bond-Surety.

In instances where the Public Works Director feels that there may be a potential liability upon the City of Bath in reference to the excavation activity, or where the excavator requesting the permit has had performance issues regarding past activities, the Public Works Director may require, as a condition of issuing the permit, a bond or other surety, in an amount sufficient to protect the City of Bath from any liability relating to the excavation activity including, but not limited to, completing the excavation activity, providing appropriate safety controls, and potential liability to third parties.

#### Section 15-51. Out-of-Service Facilities

All Facilities taken out of service and located aboveground shall be removed within 60 days of their last use. Underground Facilities that are taken out of service may remain in their existing locations providing the owner or operator retains full responsibility for the Facility as provided herein. Should a remaining Out-of-Service Facility degrade the public property, or public rights-of-way and streets or interfere with their use, construction or maintenance, the owner of that Facility is responsible for either correcting the conflict or removal of the Facility at the Public Work's Director's option.

#### Section 15-52. Appeals Process

- (a) Whenever a person shall deem themselves aggrieved by an order made by the public works director, the person may file an appeal to the City Manager within ten (10) days of the date of the order, and the person shall be afforded a hearing on the matter before the City Manager or designee, and unless by Manager's authority the aggrieved order is revoked, such order shall remain in force and be forthwith complied with by the person.
- (b) In cases of applicability or interpretation of the rules, the City Manager may revoke such order made by the public works director.
- (c) In cases where compliance with such order made by the public works director would cause undue hardship, the City Manager may extend the time limit of such order, or may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions of the rules, subject always to the rule that the City Manager shall give due consideration to the purposes of the rules in preserving public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.

#### Section 15-53. General Utility Location Requirements – Utility Corridors

The general requirements for facilities within public property, public rights-of-way, streets, and sewer and storm water easement areas, shall be outlined as part of the Rules and Regulations promulgated under the authority of Section 15-35 of this Ordinance. These general requirements shall include the designation of utility corridors within the public rights-of-ways and streets in order to maintain consistency and to interfere as little as possible with the use of said properties.

#### Section 15-54. Violations

- (a) Any person or utility found to be conducting any excavation activity within the public right-of-way without having first obtained the required permit(s) shall immediately cease all activity (exclusive of actions required to stabilize the area) and be required to obtain a permit before work may be restarted. A surcharge of two hundred fifty dollars (\$250.00) shall be required in addition to all applicable permit fees. This section does not apply to excavations necessitated by an emergency situation, as previously defined.
- (b) Any person or utility failing to comply with or violating any provision of this ordinance or the rules shall be served by the public works director with written notice stating the nature of the failure or violation and providing a reasonable time limit for the necessary corrective actions. Such person or utility shall, within the period of time stated in such notice, permanently cease or correct all failures or violations.
- (c) In order to ensure public safety, the public works director shall have the right to verbally notify and require immediate corrective actions of any person or utility whose failure to comply with this ordinance or the rules could cause a safety hazard.
- (d) Any person or utility who shall continue any failure or violation beyond the time limit required for compliance in any notice given pursuant to this ordinance or the rules shall be guilty of a violation of this ordinance.
- (e) Any person or utility violating any of the provisions of this ordinance or the rules shall be liable to the City for any expense, loss, or damage occasioned by the City by reason of such violation. The City may seek injunctive relief for the purposes of enforcing this ordinance or the rules.
- (f) Any permittee or party who continues to violate any section of this ordinance or the rules and fails to correct violations in a timely manner shall receive no further permits and will be invoiced for permanent repairs until such time as the City is satisfied that the permittee or party shall have corrected all violations in compliance with the terms of this ordinance and the Rules & Regulations.
- (g) The City reserves the right to notify a permittee's insurance and/or bond carrier of repeated violations.

#### Section 15-55. Costs & Penalties

(a) Any violation of this ordinance which is also a violation of 35-A M.R.S.A. § 2509 or 2511 or a violation of 23 M.R.S.A. § 3353 or 3355 shall subject the permittee or party to a fine as provided in said statutes, as said statutes may be amended from time to time.

(b) Any violation of this ordinance other than the violations of state law prescribed in the preceding paragraph shall subject the permittee or party to a \$50.00 fine per day for each day that a violation continues.

#### **ARTICLE 4. STREET ADDRESSING ORDINANCE (12/02/1998)**

##### **Section 15-401. Purpose.**

The purpose of this Ordinance is to provide for the rapid and accurate location of properties and structures in order to provide emergency response by law enforcement, fire, rescue, and emergency medical services personnel in the interest of the health, safety and welfare of the Inhabitants of the City or Bath.

##### **Section 15-402. Authority.**

This Ordinance is adopted pursuant to and consistent with Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A M.R.S.A. Section 3001. Reference is also made to 25 M.R.S.A. Section 2921 et. seq., concerning E-911 legislation. Further reference is made to 23 M.R.S.A. Section 3022 establishing the authority of municipalities to layout municipal ways and the inherent authority to deal with the naming and numbering of locations along those ways.

##### **Section 15-403. Administration.**

A. Administrative Officer/Duties. This Ordinance shall be administered by the Assessor of the City of Bath who is hereby authorized to assign road names and numbers to all properties both on existing and proposed roads, in accordance with the criteria in Sections 15-404 and 15-405 hereunder, and to perform such other duties as may be required under this Article.

B. Official Record. The Assessor shall be responsible for maintaining the following official records regarding implementation and administration of this Ordinance:

- (1) A city map with coverage or layer for official use depicting all assigned road names and numbers;
- (2) A listing of all physical addresses to which numbers are assigned, listed alphabetically by the last name of property owners as identified by current assessment records, showing the assigned street name and number(s);
- (3) A listing of all physical addresses to which numbers have been assigned, listed alphabetically, by roads with the property owner as identified by current assessment records and with the assigned street and number(s).

##### **Section 15-404. Naming Standards.**

A. General/Definitions.

All roads that service two or more properties or structures with separate and distinct ownership and use, whether the road is considered a public way or a private way, shall be named. For purposes of this Article only, a road means any highway, road, street, avenue, lane, private way, or similar paved, gravel or dirt thoroughfare. Property means any definable lot or area on which a permanent structure has been erected or placed or could be erected or placed. The assignment of a name to a particular road shall not constitute or imply acceptance or status of the road as a public way. Where a road services a single property or structure and the public safety purposes of this Ordinance requires, or it appears appropriate, such road may be named under this Section.

B. Criteria.

- (1) Roads with the same name shall be eliminated and shall be avoided in the future;
- (2) Roads with similar sounding names shall be eliminated and shall be avoided in the future;
- (3) Each road shall have the same name throughout its entire length;
- (4) Other factors, such as historical information regarding certain areas, may be taken into consideration in naming or renaming roads but these other factors shall be subject to and not interfere with the stated purposes of this Article as set forth in Section 15-401;
- (5) In the process of evaluating existing street names in accordance with the above criteria, renaming shall cause the least disruption possible but shall nevertheless be subject to the purposes of this Article as stated in Section 15-401 above.
- {6) Names of projects, complexes, subdivisions, condominiums and the like must not be the same as or similar sounding to existing or proposed street names.

Section 15-405. Numbering Criteria.

A. Intervals.

Due to a large area of the City of Bath being built up and urban in nature and intervals already established in these areas, it is impractical to establish uniform intervals for numbering purposes throughout the City. Where intervals are necessary, they will be assigned on as needed basis in accordance with the density of the area and its potential for growth. When the interval has been established on a particular road, then a number shall be assigned based on the structure location if it is visible from the road; if not visible, then it will be based on the driveway location.

B. Origins.

All number origins shall begin at the southern or eastern terminus of roads and shall run from south to north and from east to west. For dead end roads, numbering shall originate at the intersection where the road begins and shall run through to the terminus at the dead end.

C. Odd/Even.

Numbers appearing on the left side of the road shall be even numbers and numbers appearing on the right side of the road shall be odd numbers ascending from the road origin which shall be its southern most terminus or eastern most terminus.

D. Multi Use Structures.

Every structure with more than one principal use or occupancy, which is serviced by a separate entrance, shall have a separate number or unit designation at that entrance for that use or occupancy.

E. Multi-Family Structures.

Multi-family structures of two or more units will have a separate number or unit designation for each entrance. If that entrance services more than one unit, then those units shall be identified by a separate apartment number and floor designation.

F. Whole Numbers.

To the extent possible, all locations will be identified with whole numbers. Use of other identifying nomenclature such as letters and fractions shall be eliminated wherever possible. Where it is impossible to utilize whole numbers for existing locations, an additional identification shall be by the use of letters only beginning alphabetically with the letter A.

G. Cul-de-sacs and Circular Streets.

Streets which run in an arc with intersections at both ends, or cul-de-sacs, shall be numbered from left to right, as left and right appear facing the arc or cul-de-sac.

Section 15-406. Display of Location Identification Numbers.

All owners of structures shall, by the date stipulated in Section 15-408, display and maintain in a conspicuous and visible place, the assigned numbers in the following manner:

A. Number on the Structure.

Where the structure is within fifty (50) feet of the edge of the road right-of-way, and visible from the road right-of-way, the assigned number shall be displayed on the front of the structure in the vicinity of the front door or entry.

B. Number at the Street Line.

Where the structure is over fifty (50) feet from the edge of the road right-of-way, or is not visible from the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mail box, or on some structure at the property line adjacent to the walk or access drive to the numbered structure.

C. Size and Color of Number.



Numbers shall be a minimum of four (4) inches high and be of a contrasting color to its background.

D. Non-conforming Numbers.

Every person whose duty is to display the assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this Ordinance.

E. Interior Location.

All residents and other occupants are requested to post their assigned number and road name adjacent to their telephone for emergency reference.

#### Section 15-407. New Construction/Locations

All new construction and all new locations including subdivisions shall be named and numbered in accordance with the provisions of this Article and in accordance with the following:

##### A. New Construction.

Whenever any residence or other structure is constructed or developed, it shall be the duty of the developer or new owner to procure an assigned number and, if applicable, a road name designation from the Assessor. On new structures, numbering will be installed prior to final inspection and no occupancy permit will be issued by the Codes Enforcement Officer unless numbering is in place which is in compliance with this Article.

##### B. New Locations/Subdivisions.

Any new location or any subdivision shall show proposed road names and a lot numbering system on the pre-application submission to the Bath Planning Board. The pre-application submission shall contain a sign off by the Assessor indicating that he has approved the proposed name and numbering system for the new location and/ or subdivision. Approval by the Bath Planning Board shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets at appropriate intervals as determined under Section 15-405(A) so as to aid in the assignment of numbers to structures subsequently constructed.

#### Section 15-408. Effective Date.

This Ordinance shall become effective as of December 23, 1998.

#### Section 15-409. Notice.

Where an existing address or designation has been changed, the Assessor shall notify by mail each owner and the United States Post Office of the new address at least sixty (60) days prior to the date the change becomes effective.

#### Section 15-410. Appeal.

Any property owner aggrieved by a decision of the Assessor to assign a road name or location number, may appeal that determination to the Addressing Ordinance Appeals Board by filing a notice in letter form to that effect in the Clerk's Office within ten (10) days of receipt of notice of the determination by the Assessor. The Addressing Ordinance Appeals Board shall consist of the Police Chief, the Fire Chief, the Chairman of the City Council or his designee, and two citizens appointed by the Chairman of the City Council. The appeal shall be on the sole issue of whether or not the designation of the road name and/ or location number by the Assessor meets the purpose and expressed conditions of this Article. The Board shall have the right, in making this determination, to affirm the designation by the Assessor, to modify that designation in any manner consistent with this Article, or to adopt a new designation also in

conformity with this Article. Since the property owner has no inherent rights with respect to street naming and numerical designation of locations, the decision of this Board shall be final and binding.

## **CHAPTER 16**

### **HARBOR**

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- Section B. Harbor Limits
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- Section D. Invalidity

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## **CHAPTER 16**

### **HARBOR ORDINANCE FOR THE CITY OF BATH, MAINE**

#### **ARTICLE I. GENERAL PROVISIONS**

##### **SECTION A. PURPOSE AND AUTHORITY**

This ordinance shall establish regulations for marine activities within the harbor, waterways, and tidal waters of the City of Bath, Maine to ensure the safety of persons and property, to promote availability and use of a valuable public resource, and to create a fair and efficient framework for the administration of that resource. This ordinance shall be subordinate to existing Federal and State laws governing the same matters, and is not intended to preempt or conflict with other valid laws.

This Ordinance is enacted pursuant to the authority granted by the Charter of the City of Bath, the Maine Constitution, Article VIII, Part 2, Section 1, 30-A M.R.S. Section 3001, and 38 M.R.S. Section 1, *et seq.*, as amended.

##### **SECTION B. HARBOR LIMITS**

“Harbor and waterways” shall include the entire navigable portion of the Kennebec River, inclusive of the waters of Merrymeeting Bay and any associated tributaries, located within the City limits of the City of Bath.

“Tidal waters” shall include all waters which ebb and flow between mean high tide and mean low water within the harbor and waterways of the City of Bath. For the purposes of this Ordinance, mean high tide shall be determined from the most recent data compiled by the National Oceanic and Atmospheric Administration.

##### **SECTION C. HARBORMASTER**

The Harbormaster shall be appointed by the City Council, upon recommendation of the City Manager, for a term of not less than twelve (12) months, nor more than sixty (60) months. In addition, the Harbormaster, and any Assistant Harbormaster, shall be a sworn officer of the City of Bath Police Department.

An Assistant Harbormaster may be appointed by the Police Chief, upon consultation with the City Manager, for the same term as the Harbormaster.

Certain duties and responsibilities of the Harbormaster are prescribed by 38 M.R.S. Section 1, *et seq.*, and are incorporated herein, as may be amended. The Harbormaster has the additional duty to administer and enforce the provisions of this Ordinance with the authority granted by law and through his/her appointment as Harbormaster. He/she shall make recommendations to the City Manager for maintenance and improvements to all city-owned waterfront facilities. He/she shall have full authority to enforce all harbor regulations affecting the waterfront to the fullest extent permitted by law.

The compensation for the Harbormaster and any Assistant Harbormaster shall be established by the City Manager.

## **SECTION D. INVALIDITY**

If any provision of this ordinance is held invalid or inoperative, the remainder shall continue in full force and effect as though such invalid or inoperative provision had not been enacted.

## **ARTICLE II. DEFINITIONS**

- (1). Anchorage: Shall mean an area of the harbor and waterways located outside of the navigable channel, set aside for permanent moorings or for the temporary anchoring of boats and vessels.
- (2). Auxiliary: Shall mean any vessel having both sails and either an inboard or outboard motor and which may be propelled by its sails or by its motor or both.
- (3). Channel: Channel shall include the navigable channel of the Kennebec River within the limits of the City of Bath, as determined, and marked, by the Army Corps of Engineers and the United States Coast Guard.
- (4). Commercial Fisherman: Shall mean a person or entity who derives more than 50% of annual income from lobstering, fishing, clamming, or any other marine fishery and who has legally obtained all necessary permits, licenses, or approvals.
- (5). Commercial Vessel: Shall mean any vessel used for or engaged in any type of commercial venture, including but not limited to fishing or carrying cargo and/or passengers for hire.
- (6). Distress: Shall mean a state of disability of a present or obviously imminent danger which, if duly prolonged could endanger life or property.
- (7). Emergency: Shall mean a state of imminent or proximate danger to life or property in which time is of the essence.
- (8). Float: Shall mean any floating structure normally used as a point of transfer for passengers and the storage of gear and goods and/or for mooring purposes and includes work floats and fishing floats.
- (9). Headway Speed: Shall mean the minimum speed necessary to maintain steerage and control of the vessel while the vessel is moving.
- (10). Houseboat: Shall mean a raft, hull, barge, or vessel, designed primarily to be used as living quarters, and providing living, sleeping, cooking, and sanitary facilities, whether temporarily or permanently.
- (11). Illegally Berthed: Shall mean docking a vessel without permission or permit from the Harbormaster, and/or the owner of a marine facility.



- (12.) Marina/Marine Facility: Shall mean an all-tide waterfront facility, whose activities include sales, storage, maintenance of vessels, and which provides slips for permanent or transient berthing, sells fuel and supplies for vessels, and/or provides vehicle parking.
- (13). Mooring: Shall mean any appliance used by a craft for anchoring purposes and which appliance is not carried aboard such craft when underway as regular equipment.
- (14). Mooring, Abandoned: Shall mean a mooring that remains unused for a year unless the lack of use has been authorized by the Harbormaster.
- (15). Nonresident: Shall mean all persons who reside outside the City of Bath and who does not own real property within the City.
- (16). Resident: Shall mean any person owning, renting or residing on real property in the City of Bath.
- (17). Riparian Owner: Shall mean an owner of a parcel of land located in the City of Bath which borders upon the harbors and waterways, as described in Article I, Section B.
- (18). Shore: Shall mean that part of the land in immediate contact with a body of water, including the area between the high and low water lines.
- (19). Shall and May: “Shall” is mandatory. “May” is permissive.
- (20). State: Shall mean the State of Maine.
- (21). Stray Vessel: Shall mean (1) an abandoned vessel; (2) a vessel the owner of which is unknown; (3) a vessel underway without a competent or where required, duly licensed person in command or control.
- (22). To Anchor: Shall mean to secure a vessel to the bottom within a body of water by dropping an anchor or anchors or some other ground tackle.
- (23). Underway: Shall mean the condition of a vessel not at anchor; without moorings; and not made fast to the shore nor aground.
- (24). Vessel: Shall mean a watercraft of any kind including boats, scows, dredges, and barges but excluding floats and shellfish cars, and other structures permanently attached to moorings.
- (25). Vessel, Derelict: A vessel shall be considered “derelict” if any of the following circumstances exist: (a) the vessel is fastened to neither a mooring nor an anchor; (b) the vessel lacks any license or registration, from any authority, the possession of which is a prerequisite to the operation of such a vessel; (c) the vessel is submerged to a level substantially above its normal water line, and remains so for a period of at least fourteen (14) consecutive days without reasonable explanation; and (d) the vessel is damaged to such an extent that it cannot be moved under its own power.

(26). Visiting Vessel/Transient: A vessel will be considered visiting or transient if the vessel is not normally moored or does not have a permanent mooring in the harbor.

(27). Waterway: Shall mean any water area providing access from one place to another, principally a water area providing a regular route for water traffic.

### **ARTICLE III. GENERAL BOATING AND TRAFFIC CONTROL REGULATIONS**

#### **SECTION A. TRAFFIC CONTROL AUTHORITY**

The Harbormaster shall have the authority to control waterborne traffic in any portion of the harbor and waterways under his/her jurisdiction by use of authorized State regulatory markers, signal, orders or directions at any time preceding, during and after any race, regatta, parade or other special event held in any portion of the harbor and waterways, or at any time when the Harbormaster deems it necessary in the interest of safety of persons and vessels or other property, and it shall be unlawful for any person to willfully fail or refuse to comply with any authorized State regulatory marker utilized by the Harbormaster, or with any signs, orders or direction of the Harbormaster.

#### **SECTION B. BASIC SPEED LAWS**

The operation of any vessel within the harbor and waterways area in excess of posted speed limits or, in the absence of such limits, in a manner to create a wash which endangers persons or property, shall constitute a violation of this Ordinance; provided that special written permission may be granted by the Harbormaster to conduct or engage in water sports, special events, and regattas in specific designated areas.

### **ARTICLE IV. GENERAL REGULATIONS**

#### **SECTION A. LIABILITY**

(1). Vessel Owner: Any person using facilities within the harbor and waterways shall assume all risk of danger or loss of his property, and the City of Bath assumes no risk on account of fire, theft, act of God, or damages of any kind to vessels within the harbor or on land facilities.

(2). Marine Facility Owner and/or Operator: It shall be the responsibility of the owner, licensee, lessee, or operator of any marine, anchorage, repair yard, or other marine facility, located within the harbor or waterways, to maintain the physical improvements under his jurisdiction in a safe and clean condition at all times, to provide adequate security and fire prevention measures and appropriate firefighting equipment as required by law. Failure to correct unsafe or otherwise unsatisfactory conditions within thirty (30) days of receipt of a written notice from the Harbormaster shall be a violation of this Section.

## **SECTION B. LAUNCHING AND RECOVERY OF VESSELS**

(1). None other than the driver may occupy a motor vehicle while it is present upon the area known as a launching ramp located within the City of Bath. All motor vehicles using said ramp must securely block at least one rear wheel of said motor vehicle while it is standing upon said ramp.

## **SECTION C. PERMITS AND REGISTRATION PROCEDURE**

All permits granted under the authority of this Ordinance shall be valid only for such period as may be determined by the Harbormaster, and permits of unqualified duration shall not be granted.

Each mooring owner will annually submit a mooring permit application and pay a fee set by Resolution of the City Council of the City of Bath, which fee shall be specified in the Schedule of Harbor Fees. This fee shall be paid to the City Treasurer on or before May 1<sup>st</sup> of each year. Failure to comply will incur late fees and may result in removal of mooring and loss of berth. Mooring applications are located at Bath City Hall.

Each year, if all available mooring permits have been issued, a waiting list for mooring space shall be created. New applicants must fill out and return a mooring waiting list application with payment to the City Treasurer. The applicant shall pay an annual waiting list fee set by the City Council of the City of Bath, which fee shall be specified in the Schedule of Harbor Fees, to remain on a waiting list until a mooring space is approved or denied by the Harbormaster. Mooring applications shall be processed on a first come, first serve basis.

## **SECTION D. DAMAGE TO HARBOR OR OTHER PROPERTY**

It shall be unlawful to willfully or negligently destroy, damage, disturb or interfere with any public or private property in the harbor or waterway.

## **SECTION E. TAMPERING WITH OR BOARDING VESSELS WITHOUT PERMISSION**

It shall be a violation of this Ordinance for any person to willfully board, break into, move or tamper with any vessel or part thereof, located within the harbor unless authorized by the rightful owner of such vessel. Violation of this provision shall constitute a misdemeanor, punishable by the penalties herein above provided for violations of this Ordinance and to additional penalties not to exceed the aggregate of \$1,000. Any person violating this provision shall, in addition, be responsible to the rightful owner of any such vessel for any damage caused by such violation and to the reasonable cost of any attorney's fees incurred as a result thereof.

## **SECTION F. SIGNS AND MAINTENANCE**

The Harbormaster may place and maintain, cause to be placed and maintained, either on land or water such signs, notices, signal buoys or control devices as he/she deems necessary to carry out the provisions of this Ordinance, or to secure public safety and the orderly and efficient use of the harbor or facilities.

## **SECTION G. GENERAL RESTRICTIONS**

For the safety of the vessels and the general public the following activities are not allowed:

- (1). Casting stones, rocks or other material into the waters of the harbor on or adjacent to City or marine facilities.
- (2). Swimming from vessel launches, waterfront parks, the City floats, or from any vessels that are secured to the floats.
- (3). All types of fishing, with the exception of fly fishing, are permitted from the floats however, the fishing lines shall in no way hamper the tying up of vessels and of those approaching the floats.
- (4). Use of the launching ramps for more than twenty (20) minutes without the permission of the Harbormaster.
- (5). Tying a vessel to the City floats for more than three (3) hours without permission of the Harbormaster.
- (6). Grounding out, tying up or permitting to be grounded out, any vessel on the City launching ramps.
- (7). The placing of any skid, trailer, boat or any other craft on the waterfront grounds are allowed in designated areas only, or by permission of the Harbormaster.
- (8). Tying a vessel in excess of One Hundred (100) tons or One Hundred (100) feet to the City floats without Harbormaster permission.

## **SECTION H. HARBORMASTER'S BOAT**

Any vessel provided by the City for the Harbormaster's use shall be for the safety and maintenance of the City harbor and waterways. Any other use is forbidden without the approval of the City Manager. The vessel shall be under the direct control of the Harbormaster or Assistant Harbormaster.

## **SECTION I. DATES HARBOR OPEN**

The City of Bath Harbor will be open from approximately May through November of each year, or as may be determined by the Harbormaster.

## **ARTICLE V. ANCHORING, MOORING AND SECURITY OF VESSELS**

### **SECTION A. PLACEMENT OF PRIVATE MOORINGS OR FLOATS**

It shall be a violation of this Ordinance to place any mooring or float in the harbor without a permit from the Harbormaster, or in a location not approved by the Harbormaster.

### **SECTION B. MINIMUM MOORING REQUIREMENTS**

All moorings shall conform to specifications or regulations deemed appropriate by the Harbormaster, but at a minimum, all moorings shall be constructed of materials and be of a size to have sufficient holding power given the conditions of the City harbor and waterways.

The Harbormaster may permit variations from specifications or regulations, if in his/her judgment, the proposed mooring has sufficient holding power.

All mooring buoys shall conform to Coast Guard regulations and are to show at all tides.

The Harbormaster, in his discretion, shall maintain a plot plan of all mooring locations showing depth of water at mean low tide for each mooring and owner of each mooring.

The owner of a mooring that has been set in the City harbor shall not sublet the mooring or mooring space to any other person, except with express written permission of the Harbormaster and a permit from the Army Corps of Engineers.

After a reasonable attempt to notify the owner, an abandoned mooring, as determined by the Harbormaster, shall be removed and disposed of at owner's expense.

### **SECTION C. USE OF A CITY MOORING OR FLOATS**

(1). Permission may be granted by the Harbormaster for a private vessel to use any City mooring temporarily without charge for up to 24 hours. Private vessels in excess of thirty feet (30') docked at City facilities for a period in excess of three (3) hours shall pay docking fees as provided in the Schedule of Harbor Fees.

(2). Docking is limited to four (4) consecutive days, unless otherwise approved by the Harbormaster, followed by an absence of 4(4) consecutive days.

(3). No person shall store traps, bait, fishing gear, boats or waste material on the floats at any time. Said gear may be loaded and unloaded only in a speedy fashion.

### **SECTION D. VESSELS MAKING FAST**

No person shall make fast or secure a vessel to any mooring already occupied by another vessel, or to a vessel already moored except a rowboat, dinghy or yacht tender regularly used by such a larger vessel. If tied within a slip, such rowboat, dinghy or tender shall not extend into the waterway beyond the larger vessel if such larger vessel is also occupying the slip, or otherwise beyond the slip itself.

The owner of any vessel moored or anchored within the City harbor shall be responsible for causing such vessels to be tied and secured with proper care and equipment and in such manner as may be required to prevent breakaway and/or dragging of mooring and resulting in damage to other watercraft and property.

#### **SECTION E. MOORING VESSELS TO BUOYS**

No person shall moor any vessel to any buoy, beacon or other marker placed in the harbor to mark and define the harbor channels, or in any manner to make said vessel fast thereto or to willfully destroy any such buoy, beacon or other marker.

#### **SECTION F. MOORING REPLACEMENT**

- (1). If the Harbormaster determines that a mooring needs to be removed or replaced, at the owner's expense, the Harbormaster may so direct the master or owner of the vessel whose mooring it is to do so.
- (2). If the owner or master of the vessel neglects or refuses to comply with the Harbormaster's order, the Harbormaster may cause the entire mooring to be removed, the buoy removed and the chain dropped to the bottom, or shall make such change in the character of the mooring as required and collect from the master or owner of that boat or vessel a penalty of One Hundred Dollars (\$100.00) for services rendered, together with the necessary expenses.

#### **SECTION G. HOUSEBOATS AND FLOATING BUSINESSES**

Notwithstanding any other provisions of this Ordinance to the contrary, houseboats and floating businesses are prohibited from mooring or anchoring in the City Harbor except at marinas which provide the following:

- (1). A permanent float, dock or slip from which the houseboat may be directly boarded from land;
- (2). Connection to a public water supply by means of an individual anti-backflow valve;
- (3). A sewer connection to a public sewage system;
- (4). A year-round, all weather supply of electricity;
- (5). Compliance with any and all other applicable land use requirements.

Any such structure requires a permit from the Harbormaster and the Army Corps of Engineers.

### **ARTICLE VI. COMMERCIAL ACTIVITY**

No person shall tie up, or permit to be tied up, to the City floats any vessel for any commercial purpose except with the permission of the Harbormaster.

## **ARTICLE VII. SANITATION REGULATIONS**

### **SECTION A. DISCHARGE OF REFUSE**

It shall be a violation of this Ordinance to discharge or permit the discharge into the water of the harbor or waterways of any refuse, waste matter from toilets, petroleum or petroleum products, paint, varnish or any other foreign matter, including dead animals, fish and bait.

### **SECTION B. RESPONSIBILITY FOR SANITATION OF VESSELS**

The owner, lessee, agent, captain, master or person in charge of a vessel within the City harbor shall be responsible for any costs of clean-up. Should the Harbormaster find that any vessel or watercraft is not complying with this Ordinance he/she shall, in writing, notify the said owner, lessee, agent or captain or other person in charge of said vessel to immediately halt such action and commence to prosecute to completion of the correction or the unsanitary condition to the satisfaction of the Harbormaster. Failure to do so with reasonable dispatch shall be in violation of this Section, and the Harbormaster may then cause the condition to be corrected and the cost of such correction shall be charged to said owner, lessee, captain, master or any other person in charge.

## **ARTICLE VIII. SAFETY AND MAINTENANCE**

### **SECTION A. FLAMMABLE AND COMBUSTIBLE LIQUIDS AND/OR MATERIALS**

Within the harbor area, including parking areas, no person shall sell, offer for sale or deliver in bulk any class of flammable liquid or combustible material, nor dispense any flammable or combustible liquids in the fuel tanks of a vessel except when in compliance with all requirements of the N.F.P.A. Code 31, fire code and any other laws or regulations applicable thereto.

### **SECTION B. OBSTRUCTION TO DOCKS AND WALKWAYS**

Obstruction to docks and walkways within the harbor area by mooring lines, water hoses, electrical cables, boarding ladders, permanently fixed stairs or any other materials is strictly prohibited.

### **SECTION C. MOTOR VEHICLES**

Motor vehicles are not to be left unattended on or near launching ramps. All motor vehicles are to be parked only in designated areas, unless otherwise notified by the Harbormaster. Motor vehicle operators are to comply with all parking regulations as posted by the City of Bath.

### **SECTION D. OBSTRUCTING CHANNELS**

It shall be a violation of this Ordinance to knowingly or willfully obstruct the free use of any channel or waterway within the City harbor or to fail to report to the Harbormaster any collision between vessels or other accident or incident causing damage to persons or property.



## **SECTION E. UNSAFE BERTHING**

If any vessel shall be found, in the judgment of the Harbormaster, to be anchored or moored within the harbor facility in an unsafe or dangerous manner, or in such a way as to create a hazard to other vessels or to persons or property, the Harbormaster shall order and direct measures to eliminate such unsafe or dangerous condition. Primary responsibility for such compliance with such orders and directions shall rest with the owner of the improperly anchored or moored vessel or his authorized agent. In the absence of such owner or agent, said responsibility shall rest with the authorized operator of the facility at which the vessel is anchored or moored. In an emergency situation in the absence of any such responsible person, the Harbormaster shall forthwith board such vessel and cause the improper situation to be corrected, and the owner of the vessel shall be liable for any costs incurred by the City of Bath in effecting such correction.

## **ARTICLE IX. FEES**

From time to time, and upon recommendation of the Harbormaster and the City Manager, the City Council of the City of Bath by Resolution shall set all fees associated with and pertaining to the City of Bath Harbor. The amount of said fees shall be set forth in the Schedule of Harbor Fees.

## **ARTICLE X. ENFORCEMENT**

### **SECTION A. PENALTIES**

Except where stricter penalties are provided for elsewhere in this Ordinance, or under State or Federal law, any violation of this Ordinance shall be a civil offense punishable pursuant to 30-A M.R.S. Section 4452, as amended, and 38 M.R.S. Sections 12 and 13, as amended. Each day that such violation continues to exist shall constitute a separate violation. The Harbormaster, assistant Harbormaster, and any law enforcement officer vested with the authority to carry a weapon and make arrests shall have the authority to enforce this Ordinance. All civil prosecutions under this Ordinance shall be prosecuted by the City Attorney pursuant to the Charter of the City of Bath and all fines and penalties shall enure to the City of Bath.

### **SECTION B. NON-PAYMENT OF FEES**

If the Harbormaster determines that a fee, charge for service, or forfeiture or penalty imposed by the City of Bath under this Ordinance has not been paid, the Harbormaster shall notify the master or owner of a vessel by mailing the notice to the last known address by first class mail, or if no current address is known, by leaving a copy of the notice on the vessel if the vessel is in the City Harbor.

If the Harbormaster determines that a fee, charge for service, or forfeiture or penalty imposed by the City of Bath under this Ordinance has not been paid from a previous season, the Harbormaster may refuse to assign mooring privileges to any vessel, boat owner, or master until all such amounts due are paid in full.

## **SECTION C. ISSUANCE, SUSPENSION, OR REVOCATION OF PERMITS**

A violation of Federal or State law, or the provisions of this Ordinance or any other applicable City Ordinance, by any permittee, including the non-payment of all fees and charges for service, shall be grounds for suspension, revocation, or non-issuance of such permits.

## **SECTION D. REMOVAL AND CUSTODY OF ILLEGALLY BERTHED OR ABANDONED VESSELS**

The Harbormaster may assume custody of a vessel and cause it to be removed under any of the following circumstances:

- (1). If any unattended vessel shall be found to be secured, or moored illegally, or moored without permission or permit within the harbor.
- (2). The mooring is deemed unsafe; or
- (3). If the Harbormaster has reasonable cause to believe that a vessel has been abandoned within the harbor.
- (4). If the Harbormaster concludes that a vessel poses an immediate threat to the health, safety, or welfare of persons using either the harbor or lands adjoining the harbor, the Harbormaster has directed the master or owner of such vessel to immediately move the vessel and the master or owner of such vessel has refused.
- (5). Upon receiving a complaint from the owner of a vessel that another vessel is obstructing the free movement or safe anchorage or owner's vessel, the Harbormaster shall direct the master or owner of such vessel to move the vessel to a position to be designated by the Harbormaster and the master or owner of such has refused.
- (6). If the Harbormaster finds any vessel anchoring within the channel lines as established by the City of Bath, or other relevant maritime authority, the Harbormaster shall direct the master or owner of such vessel to remove such anchorage and the master or owner of such vessel has refused.

The City of Bath and its officials shall not be held liable for any damage to such vessel or liable to its owners before or after assuming custody. Vessels so taken into custody shall be released to the owner by the Harbormaster only after satisfactory proof of ownership has been presented and full reimbursement made to the City for all costs incident for recovery, movement, and/or storage.

## **SECTION E: PROCEDURES FOR IMPOUNDING VESSELS**

If a vessel has no crew on board, or if the master or other person in charge neglects or refuses to move such vessel as directed by the Harbormaster, the Harbormaster may put a suitable crew on board and move that vessel to a suitable berth at a wharf or anchorage, at the cost and risk of the owners of the vessel and shall charge One Hundred Dollars (\$100.00) to be paid by the master or owner of that vessel, which charge, together with the cost of the crew for removing that vessel may be collected by civil action by the City.

Within 24 hours of such action, the Harbormaster shall notify the master or owner of the vessel at the owner's last known address.

## **ARTICLE XI. APPEALS**

Any action or decision of the Harbormaster as to which this Ordinance expressly provides a right of appeal may be appealed to the City Manager pursuant to this Article X. No other action, non-action, decision or determination of the Harbormaster is appealable under this Ordinance.

An appeal must be submitted in writing to the City Manager no later than thirty (30) days after the action or decision appealed from. Upon receipt of a written appeal, the City Manager shall schedule an appeal hearing, giving notice to the applicant and to the Harbormaster of the date, time, and place of the hearing. The appellant and the Harbormaster each shall have the opportunity to be heard and to present written and oral evidence. After the hearing, the City Manager shall promptly issue a written decision.

## **ARTICLE XII. REPEAL OF PREVIOUS REGULATIONS**

This Ordinance repeals and replaces Chapter 16, Mooring Ordinance, Chapter 10, Public Safety, Article 2, Operation of Vessels, and Chapter 2, Administration, Section 2-14, Harbormaster Division, and any other prior Ordinances, rules or regulations inconsistent herewith.

## **CHAPTER 17**

### **VEHICLES AND TRAFFIC**

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WHEREAS, Section 17-260(d) provides for the administration of permits and the setting of permit fees by Resolution of the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that the fees for the use of the Water Street Lot (West side), Commercial Street Lot, and the designated parking areas on School Street, shall be Forty-Five Dollars (\$45.00) per month, for each location, effective beginning January 1, 2016, and for all subsequent months thereafter or until such time as amended by further Resolution of this Council.



## CHAPTER 17. VEHICLES AND TRAFFIC

### ARTICLE 1. GENERAL PROVISIONS.

#### Sec. 17-1. Definitions.

(a) As used in this Chapter, unless the context otherwise indicates, the following words shall be ascribed the following meanings:

(1) **All-terrain vehicle ATV** a motor driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-track, multi-wheel or low pressure tire vehicle; a motorcycle or related 2-wheel, 3-wheel or belt-driven vehicle; an amphibious machine; or other means of transportation deriving motive power from a source other than muscle or wind. For purposes of this definition, an "all terrain vehicle" does not include an automobile, personal assistive mobility device, a truck, a snowmobile, an airmobile, a construction or logging vehicle used in performance of its common functions, a farm vehicle used for farming purposes, or a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.

(1A) **Authorized Emergency Vehicle** shall mean those vehicles, such as ambulances, as are designated or authorized by the City Manager as emergency vehicles, and shall specifically include vehicles of the Fire Department and the Police Department.

(2) **Business District** shall mean the territory contiguous to and including the highway when fifty per cent or more of the frontage thereon, for a distance of three hundred feet or more, is occupied by buildings in use for business.

(3) **Crosswalk** shall mean that portion of a roadway at an intersection included within the connections of the lateral line of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs, from the edge of the traversable roadways; or any portion of a roadway at an intersection or elsewhere distinctly marked or indicated for pedestrian crossings by lines or other markings on the surface.

(4) **Driver or Operator** shall mean every person who is in actual physical control of a motor vehicle on a highway, or who is exercising control over or steering a vehicle being towed by a motor vehicle.

(5) **Intersection** shall mean the area embraced within the prolongation or continuation of the lateral side line of two highways which join one another at, or approximately at, right angles, or the area within which the vehicles traveling upon different highways joining at any other angle may come in conflict; or where a highway includes two roadways thirty or more feet apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection and in the event such intersecting highway also includes two roadways thirty or more feet apart, then every crossing of two roadways of such highway shall be regarded as a separate intersection.

(6) **Motorbike** shall include any motor driver vehicle designated to travel with not more than three wheels in contact with the ground and including but not limited to a motorcycle, motorbike, moped, trail bike or motor scooter.

(7) **Motor Vehicle** shall mean every vehicle which is self propelled and not operated upon rails.

(8) **Operate** and all its moods and tenses, when it refers to a vehicle as defined, shall mean the use of that vehicle in any manner whether or not said vehicle is under way.

(9) **Operator** shall mean every person who drives or is in actual physical control of a motor vehicle, or who is exercising control over such a motor vehicle.

(10) **Park** shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in, loading or unloading.

(11) **Pedestrian** shall mean any person on foot.

(12) **Police Officer** shall mean every officer of the Police Department of the City of Bath, including Parking Patrol Officers, and any other officer authorized to direct or regulate traffic, or to make arrest for violation of traffic regulations, within the jurisdiction of the City of Bath.

(13) **Person** shall mean any individual, corporation, firm, partnership, joint venture, association, fiduciary trust, estate, or any other legal or commercial entity.

(14) **Private Road or Driveway** shall mean every way or place in private ownership used for vehicular traffic by the owner and those having expressed or implied permission from the owner, but over which the general public has no right of use.

(15) **Right of Way** shall mean the privilege of immediate use of the roadway.

(16) **Roadway** shall mean that portion of a street which is improved, designed or ordinarily used for vehicular traffic.

(17) **Safety Zone** shall mean the area or space officially set aside within a roadway for the exclusive use of pedestrians, and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(18) **Sidewalk** shall mean that part of a street between the curb lines, or the lateral lines of the roadway, and the adjacent property line intended for the use of pedestrians, and excludes the use of motor vehicles.

(18A) **Snowmobile**: Snowmobile shall mean any vehicle propelled by mechanical power that is primarily designed to travel over ice or snow supported in part by skis, belts or cleats.

(19) **Standing** shall mean any stopping of a vehicle, whether the vehicle is occupied or unoccupied.

(20) **Stop** shall mean a complete cessation of movement.

(21) **Street or Highway** shall mean the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for traffic purposes.

(22) **Traffic** shall mean pedestrians, ridden or herded animals, vehicles, or any other conveyances, either singly or together, while using any street or highway for purposes of travel.

(23) **Traffic Control Device** shall mean all signs, signals, markings and devices, whether immovable, or whether manually, electrically, or mechanically operated, placed or erected by the authority of a public body or public official having jurisdiction within the City of Bath, by which said device traffic is alternately directed to stop and/or to proceed, or for the purpose of regulating, warning or guiding traffic.

(24) **Vehicle** shall mean every device in, upon, or by which any person or property is or may be transported or drawn on a highway, including bicycles but excepting such devices as skate boards and roller skates, and excepting snowmobiles as defined in M.R.S.A. 1971. (Ord. 11/18/81.)

(25)

(26) **Sec. 17-2. Powers of the City Manager over Traffic.**

**(a) Without resort to Council action the City Manager is hereby authorized to:**

(1) Establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

(2) Mark lanes for traffic on street pavements at such places as he may deem advisable, consistent with the traffic ordinances of this City, and to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at intersections.

(3) Establish a permanent zone of quiet upon any street where there is a hospital or convalescent home when requested to do so by the proper authorities of the hospital or convalescent home, such zone of quiet to embrace the territory adjacent to the hospital or convalescent home as the City Manager deems necessary.

(4) Establish temporary zones of quiet upon any street where a person is seriously ill, if requested to do so by the written statement of at least one registered physician certifying to its necessity. The temporary zone of quiet shall embrace all territory within a radius of 200 feet of the building occupied by the person named in the request or the physician. The zone of quiet provided in this Subsection and Subsection (a)(6) hereof shall be designated by the City Manager by placing in a conspicuous place in the street a sign or marking bearing the words "Quiet Zone."

(5) Determine upon what streets angle parking shall be permitted and shall mark or sign such streets.

(6) Designate, by causing lines to be painted, areas within municipal and public parking lots and on the streets and ways of the City, within which vehicles will be parked.

(a) At the direction of the City Council, and upon appropriate Council action either by Resolution or Ordinance, the City Manager shall

1. Establish bus stops for passenger common carrier motor vehicles on such public street, in such places and in such manner, as he shall determine to be of the greatest benefit and convenience to the public, and every such bus stop shall be designated by appropriate signs.

2. Erect such signs as would properly reflect traffic control and parking control ordinances as determined by this Chapter.

3. To close any street, sidewalk or public way or portion thereof as so directed by Resolution of the council.

(b) The within designated powers of the City Manager over traffic are subject to the provisions of this Chapter. However, the City Manager shall have the authority to alter, waive, amend or otherwise modify the provisions of this Chapter for a period of time not to exceed three days. In all such instances where said provisions are waived, altered, amended or otherwise changed, such shall be duly posted.

(c) The Police Chief shall have the authority to waive, for a temporary and specific purpose, any no parking restriction or any timed parking restrictions contained in this Chapter or to impose temporary no parking restrictions for a temporary and specific purpose. Said restrictions may be waived or imposed only in those instances where in the opinion of the Police Chief danger to the public safety will not be created or must be relieved. (Ord. 11/18/81)

### **Sec. 17-3. Applicability of Chapter.**

(a) **General.** This Chapter shall apply to all persons who are engaged in the operation of any vehicle upon the public ways within the jurisdiction of the City of Bath.

(b) **Public Employees.** This Chapter shall apply to the driver of any vehicle owned by or used in the service of the United States Government, or any State, County, City or Town, and no such driver shall violate any of the provisions of this Chapter except as otherwise permitted in this Chapter, or by State or Federal statute.

(c) **Emergency Vehicles.** The provisions of this Chapter shall apply to authorized emergency vehicles except that, when operating any such vehicle in an emergency, and unless otherwise directed by a Police Officer, that driver may:

1. Park or stand notwithstanding the provisions of this Chapter.
2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be deemed necessary for safe operation.
3. Exceed the prima facie speed limits so long as he does not endanger life or property.

4. Disregard regulations concerning direction of movement or turning in specific directions so long as he does not endanger life or property.

This provision regarding emergency vehicles shall not protect the driver of any such vehicle from the consequences of his reckless disregard for the safety of others.

- (d) **Pushcarts and Animal-drawn Vehicles.** This Chapter shall apply to all persons propelling any pushcart, riding an animal upon a roadway, or driving any animal-drawn vehicle. (Ord. 11/18/81, as amended)

## **ARTICLE 2. ACCIDENTS.**

### **Sec. 17-51. Duty to Report Accidents; use as evidence.**

The driver of a vehicle involved in an accident resulting in an injury or death to any person, or property damage shall, in addition to the reporting requirements established by 29 M.R.S.A. ' 891, and within twenty-four hours after such accident, forward a written report of such accident to the Bath Police Department. Such report may be a copy of the accident report required under ' 891 to be filed with the Secretary of State. Any officer of the Bath Police Department may require any driver of a vehicle involved in an accident to file a supplemental report or reports whenever the original report is insufficient in the opinion of that officer. Witnesses to accidents may also be required when deemed appropriate, to render reports to the department. Whenever a driver of a vehicle is physically incapable of making the required report, he shall be required to make the report at such time as the physical incapacity is removed. If there is another occupant in the vehicle at the time of the accident capable of making a report, such occupant shall make, or cause to be made, the required report. The fact that an accident report has been made shall be admissible in evidence solely for the purpose of proving compliance with this section. No report, nor any part thereof, nor any statement contained therein, shall be admissible in evidence for any other purpose in any trial, civil or criminal, arising out of such accidents. (Ord. 11/18/81)

## **ARTICLE 3. IMPOUNDING VEHICLES**

### **Sec. 17-101. Authority to Impound.**

(a) Members of the Police Department are authorized to cause to be removed any vehicle from a street or highway, or any public way, to the nearest garage or other place of safety, or to an area designated or maintained by the City, in the following instances:

1. When any vehicle is left unattended upon any bridge or causeway where such vehicle constitutes an obstruction to traffic.

2. When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are incapacitated to such an extent as to be unable to provide for its custody or removal.
3. When any vehicle is left unattended upon any street or highway and is so parked illegally as to constitute a definite hazard to life or property or obstruction to the normal movement of traffic; or
4. When any vehicle is left unattended upon any street or highway and is so parked as to interfere with or hinder snow removal operations by the City.
5. When any vehicle is parked in violation of the provisions of this Chapter, including being parked in excess of the time period specified herein.
6. When a vehicle is found on a street, highway or public way within the jurisdiction of the City of Bath; when such vehicle has three or more outstanding parking citations, whether or not said vehicle is at that place and time in violation of any of the provisions of this Chapter.  
(Ord. 11/18/81)

#### **Sec. 17-102. Records.**

- (a) **Towing.** When a vehicle is caused to be removed by a Police Officer, the Police Department shall keep and maintain a record of the vehicle towed, listing its owner as reflected by registration records, the owner's address, the make, year of manufacture and color of the vehicle, the registration number and state of registration, the date and hour of tow, the location towed from, the location towed to, the reason cited for towing, and the name of the officer authorizing the tow.

A copy of this notice shall be given to the operator of the vehicle conducting the towing and impounding activities, and to the operator of the facility where the vehicle is impounded. (Ord. 11/18/81)

#### **Sec. 17-103. Costs.**

The owner of any vehicle removed from a street, highway or public way, pursuant to this ordinance, shall be responsible for all towing costs. (Ord. 11/18/81)

#### **Sec. 17-104. Reclaiming Vehicle.**

- (a) The owner of any vehicle removed from a street or highway under this Article, may reclaim the vehicle by:



1. Furnishing satisfactory evidence of his identity and of his ownership of the vehicle to the officer in charge at the Police Department.
2. Paying the reasonable charges for the towing and storage of the vehicle; and
3. Paying all outstanding fines, fees and assessments for parking violations outstanding against the vehicle, if any.
4. Signing a receipt for the return of the vehicle. (Ord. 11/18/81)

#### **Sec. 17-105. Alternative to Towing and Impounding.**

In instances where the registered owner of a vehicle has three or more outstanding parking citations, is found on a street, highway, or public way, as an alternative to the towing and impounding of said vehicle, the officer shall have the option of attaching a device designed to immobilize the vehicle and prevent its operation through the use of devices such as the "Denver Boot". In order to reclaim the vehicle and cause the removal of the immobilization device, the owner shall follow the procedures set forth in Section 17-104. Any tampering with or attempt to disengage the immobilization device shall be deemed a violation of this section, and shall be punishable as designated in Section 17-352. Use of an immobilization device shall subject the owner to the penalties set forth in Section 17-351. (Ord. 11/18/81; 8/25/93)(Ord.5/6/09)

### **ARTICLE 3A. TOWING OF VEHICLES**

#### **Sec. 17-121. Statement of Necessity.**

During the course of performing law enforcement functions, including but not limited to criminal investigations and inquiries, control and abatement of circumstances arising from motor vehicle accidents, and the enforcement of traffic and safety Statutes and Ordinances, there will be situations which require the removal of motor vehicles from both private and public ways. In addition, the City of Bath, in Chapter 17, Article 3, provides authority for the Bath Police Department to remove and impound vehicles from public ways under certain circumstances (See Code Section 17-101). This Ordinance is intended to address those circumstances which may arise where the City of Bath Police require the removal of vehicles.

Since the City of Bath does not have the resources or equipment to effect the removal of vehicles when necessary, the City must depend on the availability of private contractors to effectuate the removal and, if necessary, storage of a vehicle. This Ordinance is intended to provide for the quick and efficient removal of vehicles where required and for the preservation of any evidentiary value that may be necessary in regard to related future court actions.



### **Sec. 17-122. Applicability.**

This Ordinance shall apply in all instances where the removal of vehicles is ordered by the Bath Police Department under circumstances where the vehicle is being impounded or where the vehicle must be removed and the owner/driver is unavailable. It shall not apply to instances, other than impoundment, where the owner or driver is available and requests a particular towing operator, provided that that operator so designated is able to respond in a timely fashion and would not represent an interference with legitimate police functions. Where police contact a towing operator at the request of an owner/driver it shall not be considered a removal ordered by the Bath Police Department. Any final decision in this matter, however, shall always be with the investigating officer on the scene.

### **Sec. 17-123. General Requirements.**

The City will only utilize the services of towing operators who:

- 1) Are prompt, reliable and capable of moving cars safely.
- 2) Have the capability of storing vehicles in a location which is reasonably safe from pilferage and further damage.
- 3) Agree to a schedule of maximum fees for services.
- 4) Conduct themselves and have employees who conduct themselves in a professional and courteous manner in order to avoid conflict and maintain the image and integrity of law enforcement.

### **Sec. 17-124. Rotation List.**

There shall be a rotation list of up to six (6) qualified operators maintained by the Chief of Police or his designee. Should an operator voluntarily or involuntarily be removed from the list, the Chief of Police, after consultation with his staff, will determine whether to add another qualified operator to the list.

The list shall be maintained at the Sagadahoc County Communications Center and will rotate among the operators on the list according to the log maintained. Dispatchers shall move down the list from top to bottom and then back to the top of the list in assigning calls, with each call being assigned to the next available operator on the list. If a particular operator does not respond to a call, then they shall be passed by in favor of the next available operator, and shall not be eligible for another call until that operator appears in the normal continuing rotation.

### **Sec. 17-125. Conditions Precedent.**

Towing operators shall demonstrate to the Chief of Police that they have met the following standards and requirements prior to being considered for placement on the rotation list:

- 1) Equipment. Service wreckers will be equipped with a qualified 4-ton boom and winch with hydraulic wheel lift. Wreckers must also be equipped with qualified protective equipment, and other equipment necessary for AAA affiliation. All equipment must be in good working order. Wreckers must meet State inspection standards. Each service wrecker shall have permanently affixed to the wrecker in a prominent location(s) a logo or lettering of a size and color to make it readily identifiable, a logo or lettering that identifies the business entity operating the service wrecker.
- 2) Shall be properly licensed as required by State Law, all vehicles used in the towing operation shall be properly licensed and inspected and carry valid inspection stickers. In addition, the wrecker service business, storage area and any other business activity shall comply with all City of Bath land use requirements, if located within the City.
- 3) Availability. The wrecker service must provide service twenty-four (24) hours seven (7) days per week and demonstrate that there are sufficient levels of personnel and equipment on-duty or on-call to respond to calls.
- 4) Storage Requirements. The towing operator shall have access to and maintain storage facilities for towed vehicles. These storage facilities for impounded vehicles shall be reasonably secure, either fenced-in locations or inside storage, in order to preserve evidence and prevent damage or vandalism to stored vehicles. Vehicles removed for snow removal or other reasons other than impoundment, will be stored in locations protected from damage or pilferage. Staff shall be available at these facilities or on call for the retrieval of vehicles from 8 a.m. to 8 p.m. The existence and adequacy of storage facilities shall be verified by inspection of the Chief of Police. All impound and storage areas will be within a radius of six (6) miles of the Bath Municipal Building.
- 5) Snow Removal. The towing operator must have access to a storage area for at least ten (10) vehicles.
- 6) Business Location/Response. Qualified operators must be located within eight (8) road miles of the Bath Police Department located at 250 Water Street in Bath. They shall provide evidence satisfactory to the Chief of Police that they will be able to provide a normal response time of not more than Thirty (30) minutes after accepting a call for service under normal road and weather conditions.

**Sec. 17-126. Indemnification.**

The operator shall defend, indemnify and hold harmless the City of Bath, its employees, officials, and agents from and against all claims, charges, losses and expenses including attorney's fees arising out of or resulting from the performance of services initiated by the City of Bath and provided by the operator under City Ordinances, Guidelines and Policies.

**Sec. 17-127. Insurance.**

The operator must carry a commercial automobile liability insurance policy in a Combined Single Limit policy, or its equivalent, of at least \$500,000. The policy shall be in a form and with an insurance carrier acceptable to the City of Bath and the City of Bath shall be named as an additional insured on the policy. Certification of having the policy in effect shall be a condition precedent to an operator being placed on the rotation list and shall be in full force and effect at all times while the operator is on the list. Failure to maintain insurance shall be cause for removal from the list. A certificate of insurance shall be provided by January 1<sup>st</sup> of each year.

**Sec. 17-128. Protection of Evidence.**

There will be instances where vehicles will be impounded and removal from the scene initiated by the Bath Police Department. In those instances, it is imperative that the integrity of the evidence be preserved and each towing operator shall be responsible for taking all reasonable precautions required by the Police Department to avoid any damage to or degradation of any evidence. When required, the towing operator or the operator's employee involved in the call will be required to appear in court. The towing operator shall not, by State Law, assist any vehicle involved in an accident before notifying the Police.

**Sec. 17-129. Maximum Rates.**

Maximum fees for City ordered towing with minimal waiting period, shall conform to the following schedule:

Seventy-Five Dollars (\$75.00)	Daytime
Eighty-Five Dollars (\$85.00)	Nighttime

Inside storage shall not exceed Fifty Dollars (\$50.00) per day and outside not to exceed Thirty-Five Dollars \$35.00 per day.

Daytime and nighttime shall be defined as follows:

Daytime	7 a.m. to 7 p.m.
Nighttime	7 p.m. to 7 a.m.

Day is defined as: A day is considered to be a 24-hour period from time of tow. (Ord. 4/6/11)

Charge will be based on the time the call is initiated as recorded by the Police Communications Officer. Reasonable extra charges may be assessed for service which requires dollies, winching, long waiting periods or other unforeseen services depending on the situation. Any additional charges, above standard fees, shall be listed and specified on bills.

Vehicle release fees shall not exceed \$15.00 for requested releases during non-business hours.

Business Hours are defined as: Business Hours shall be defined as being 8 a.m. to 5 p.m. Monday through Saturday.

In the event that an operator has been requested for service and upon arrival the situation has changed and services are no longer required, the owner or driver must pay the wrecker the amount of one-half (1/2) of the towing charge. If the wrecker has hooked onto the vehicle then the vehicle's driver or owner must pay a full service wrecker fee as authorized by this Ordinance and Bath Police Department policy.

For purposes of application of the maximum rates set forth in this Section, City ordered towing shall be limited, and these maximum rates shall be limited, to instances where the towing is ordered by the Bath Police Department for the impoundment of a vehicle or removal of a vehicle where the owner/operator is unavailable. In instances where the owner/operator is available but requests the Bath Police to provide a towing operator, these maximum rates shall not apply.

#### **Sec. 17-130. Condition of the Roadway.**

The operator will be responsible for removing all broken glass and other vehicular debris from the roadway resulting from an accident. Normal clean-up procedures are considered part of the towing operator's duties and are not chargeable to the involved parties.

#### **Sec. 17-131. Unclaimed Vehicle.**

Contact shall be made by wrecker companies to all vehicle owners, or other responsible parties, who have not claimed a vehicle within 48 hours of towing. This contact is for the expressed purpose of obtaining a name and address of the responsible party and to explain the fee structure of the wrecker company for the disposition of said vehicle. The Police Department will assist the wrecker companies who are unable to make effective contact. It is also suggested that wrecker companies keep a log of who and when these parties are contacted for future reference in the event a dispute arises over towing and/or storage.

### **Sec. 17-132. Disqualification.**

A towing operation will be disqualified at any time if it is not in compliance with the standards of these regulations. To become re-qualified, the towing operation must correct any discrepancies, at which time it will be scheduled into the rotation in the same manner as a newly qualified operation.

### **Sec. 17-133. Additional Service.**

In the event a situation is beyond the capability of the towing operator called, the police will attempt to obtain additional assistance from among the other qualified operators. If special equipment is needed that none of the on-call services possess, then assistance can be obtained from any wrecker service that has the needed equipment.

### **Sec. 17-134. Grievance.**

In the event a complaint arises due to services, additional charges, or violations of these guidelines, the Chief of Police or his designee, shall investigate the matter and initiate a final resolution. The final resolution alternatives available to the Chief of Police or his designee, shall include any one or more of the following: administrative warning, suspension from the rotation list, termination from the wrecker list permanently. In the event formal disciplinary action is taken against a wrecker company, said company shall have a right to an administrative review by the City Manager's office by filing a written request within ten (10) days of notice of said action. The City Manager decisions in such matters shall represent final resolution, subject to Statutory rights of appeal pursuant to Rule 80B of the Maine Rules of Civil Procedure. (Ord. 8/01/01)

## **ARTICLE 4. PEDESTRIANS**

### **Sec. 17-151. Pedestrians Subject to Traffic Control Signals.**

Pedestrians shall be subject to traffic control signals at intersections as provided in this Chapter and Section 17-202, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions as stated in this Article. (Ord. 11/18/81)

### **Sec. 17-152. Right of Way at Crosswalks.**

(a) Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this Article.

(b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle, approaching from the rear, shall not overtake and pass such stopped vehicle. (Ord. 11/18/81)

#### **Sec. 17-153. Restrictions on Pedestrians.**

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk, or within an unmarked crosswalk at an intersection, shall yield the right of way to all vehicles upon the roadway.

(b) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(c) Notwithstanding the provisions of this section, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, and shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. (Ord. of 11-18-81)

#### **Sec. 17-154. Crosswalks.**

Crosswalks shall exist, whether marked or unmarked, at all intersections. Crosswalks at areas other than at intersections shall be designated by Resolution of Council, with a list of all such areas to be placed on record at the City Clerk's Office, with these areas to be appropriately marked. At all such areas, whether at intersections or at marked areas other than at intersections, pedestrians shall have the right-of-way. (Ord. of 11-18-81)

<b>Crosswalk on Centre Street, east of Bluff Road (leading to Elmhurst Center)</b>
<b>Crosswalk on Commercial Street near Waterfront Park</b>
<b>Crosswalk on Commercial Street near Casco Bank</b>
<b>Crosswalk on Front Street at Wellby's</b>
<b>Crosswalk on High Street at Hyde School (north and south bound)</b>
<b>Crosswalk on High Street at Morse High School (north and south bound)</b>
<b>Crosswalk on High Street at York Street</b>
<b>Crosswalk on High Street at Wright Drive</b>
<b>Crosswalk across Richardson Street, at the intersection of Western/Redlon and Richardson Street (Ord. 5/3/2017)</b>
<b>Crosswalk on Washington Street near B.I.W. South Gate (Ord. 10-19-94)</b>
<b>Crosswalk on Washington Street from West Gate Area to the corner of South Street (Ord. 10-19-94)</b>

<b>Crosswalk on Washington Street just below Weeks Street</b>
<b>Crosswalk at Washington Street at the north side of South Street</b>
<b>Crosswalk at Washington Street adjacent to Wesley Church</b>
<b>Crosswalk at Washington Street near the Post Office</b>
<b>Crosswalk at Washington Street near Washington House</b>
<b>Crosswalk on Washington Street leading from the Union Office Building at 722 Washington Street and running to the gate in the B.I.W. main parking lot. (Ord.1/4/2008)</b>
<b>Crosswalk on Winship Street from the sidewalk near the Mid Coast Hospital Winship Street entrance to the employees' parking lot.</b>

**Sec. 17-155. Loitering, discharging passengers on portion of Old Brunswick Road right-of-way.**

It shall be unlawful for any person to stand, sit or otherwise stay in or about the portion of the right-of-way known as the Old Brunswick Road located beginning at the easterly entrance of the Bath Junior High School, and extending along the northerly side of the Old Brunswick Road to Judkins Avenue. The discharge of passengers from motor vehicles, in this area, shall likewise be prohibited. (Ord. No. 83-23, 9-21-83)

**Secs. 17-156-17-200. Reserved.**

**ARTICLE 5. OPERATION**

**Sec. 17-201. Obedience to police officer, traffic-control devices; signing.**

(a) The driver of any vehicle and any pedestrian shall comply with any lawful order or direction of a police officer.

(b) The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the traffic ordinances of this City, unless otherwise directed by a police officer.

(c) No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation of an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective without signs being erected to give notice thereof. (Ord. of 11-18-81)



## **Sec. 17-202. Traffic-control signal legend.**

Whenever traffic is controlled by traffic-control signals exhibiting the words "Go", "Caution", or "Stop", or exhibiting different colored lights successively, the following colors only shall be used and shall indicate as follows:

### **(1) Green alone or "Go":**

a. Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. Vehicular traffic shield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time such signal is exhibited.

b. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

### **(2) Yellow or "Caution":**

a. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.

b. Pedestrians facing such signals are thereby advised that there is insufficient time to cross a roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

### **(3) Red alone or "Stop":**

a. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line, and shall remain standing until green or "Go" is shown alone. Traffic at such signal may turn right and proceed subsequent to a complete stop, and after having yielded to all other traffic and pedestrians, except where such turn is specifically prohibited.

b. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

### **(4) Red in combination with yellow:**

a. Vehicular traffic facing the signal shall stop.

b. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(5) **Red with green arrow, illuminated or otherwise denoted by an appropriate sign:**

- a. Vehicular traffic facing such signal may turn in the direction indicated on red, but shall not interfere with other traffic.
- b. No pedestrian, facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.  
(Ord. of 11-18-81)

**Sec. 17-203. Flashing signals.**

When flashing red or yellow signals are used they shall require obedience by vehicular traffic as follows:

- (1) **Flashing red (stop signal).** When the red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop entering the nearest crosswalk at an intersection or at a limit line when marked, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
- (2) **Flashing yellow (caution signal).** When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution. (Ord. of 11-18-81)

**Sec. 17-204. Location of traffic-control signals.**

- a. An automatic traffic light control signal shall be installed at the following intersections:

- 1. Washington and Centre Streets
- 2. Washington and School Streets
- 3. Washington and Vine Streets
- 4. Washington Street and Leeman Highway
- 5. Washington Street and Leeman Highway Extension

Turning right on red, in accordance with state regulations, shall be permitted at each of these intersections.

- b. an automatic traffic-control signal, consisting of flashing red lights, shall be installed at the following intersections:

- 1. High and Court Streets
- 2. High and Centre Streets
- 3. High and Oak Streets
- 4. High and North Streets

These are for the purpose of indicating a fire lane, and when in operation shall cause all traffic to yield to fire apparatus proceeding through those intersections.

c. An automatic traffic control signal, consisting of flashing red and/or yellow lights, shall be installed at the following intersections:

1. High and Oak Streets
2. High and North Streets

d. A pedestrian activated warning system, shall be installed in the following intersection:

- (1) Congress Avenue and Centre Street (Ord. 10-19-94)

These are for the purpose of indicating a hazardous intersection, and shall cause all traffic to reduce speed and proceed through the intersection in accordance with Section 17-203 (2). (Ord. of 11-18-81; Ord. No. 84-9, 5-30-84)

#### **Sec. 17-205. School crossing stop signs.**

The City Manager shall designate the time of placing of school crossing stop signs and the location thereof. Whenever traffic is controlled by a school crossing stop sign exhibiting the word "Stop" vehicular traffic facing the sign shall stop before entering the nearest crosswalk or at such other point as may be indicated by a clearly visible line, and shall then proceed with due caution having regard to the safety of the pedestrians crossing at that point. (Ord. of 11-18-81)

#### **Sec. 17-206. No-turn signs and turning markers.**

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign. When authorized marks, or other indications are placed within any intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications. (Ord. of 11-18-81)

#### **Sec. 17-207. U-turns restricted.**

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not, upon any other street, so turn a vehicle unless such movement can be made in safety and without interfering with other traffic. (Ord. of 11-18-81)

**Sec. 17-208. Obstructing free passage when traffic stopped.**

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians through that intersection, notwithstanding any traffic-control signal indication to proceed. (Ord. of 11-18-81)

**Sec. 17-209. Speed Limits.**

(a) A person operating a vehicle on any street, highway or public way within the jurisdiction of the City, shall operate that vehicle at a careful and prudent speed not greater than is reasonable and prudent under the conditions then existing, and not in excess of any posted speed limit, and having due regard to the traffic, surface and width of the way, and to the actual and potential hazards in any other conditions then existing.

(b) In accordance with the authority of the Commissioner of Transportation, pursuant to 29-A M.R.S.A. § 2073, and in view of the City of Bath's election not to exercise its rights to set speed limits within the municipal limits of the City as permitted under 29-A M.R.S.A. § 2075(3)(E), all speed limits along the public ways within the City of Bath are as designated by the Commissioner of Transportation. Unless otherwise designated by the Commissioner, the speed of operation of vehicles within the City is limited to twenty-five (25) miles per hour. Designation of speed limits other than the twenty-five (25) miles per hour speed limit are indicated on lists at the Bath Police Department and the Bath City Clerk's Office and by appropriate signage. (Ord. 1/4/2006)

(c) In all municipal and public parking lots, speed is limited to 10 miles per hour. (Ord. 1/4/2006)

**Sec. 17-210. One-Way Streets.**

(a) Upon those streets and parts of streets described herein, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

(b) The following streets are designated as one-way streets:

STREET	DIRECTION
ACADEMY STREET	Easterly, from Lincoln Street to Maple Street
ARCH STREET	Westerly, from Commercial Street to Front Street
ANDREWS ROAD	Westerly, from Dike Road to former Huse School Property (7-5-2017)
BATH STREET	Westerly, from Washington Street to Middle Street (10-21-92)

STREET	DIRECTION
BOWERY STREET	Westerly, from Front Street to Washington Street (8-24-94)
BROAD STREET	Easterly, from Front Street to Commercial Street
CENTRE STREET	South of monument, one-way east from High to Centre Streets
COBB ROAD	Easterly, from the former Huse School Property to Dike Road (7-5-2017)
COMMERCIAL STREET	Easterly and northerly, from Water Street to Carlton Bridge. (10-12-94)
ELM STREET	Easterly, from Washington Street to Water Street
FRONT STREET	Northerly, from Centre Street to Elm Street Northerly, from Holly Street to Bowery Street (for commercial vehicles in excess of two axles only, except service vehicles) (8-24-94)
HIGH STREET AT WINNEGANCE	Southerly over the western most lane of traffic on High Street At Winnegance (west of the traffic island only), beginning at the North line of Lot 21 on Tax Map 45 and running southerly line of Lot 19-1 on Tax Map 45.*
LEEMAN HIGHWAY CONNECTOR	Easterly, from Leeman Highway Connector to Vine Street
LEEMAN HIGHWAY EXTENSION	Easterly, from Washington Street to Water Street
MAPLE STREET	Northerly, from Academy Street to Chestnut Street
RUSSELL STREET	Easterly, from Maxwell Street to Washington Street
SCHOOL STREET	Westerly, from Washington Street to Middle Street
SUMMER STREET	Easterly, from the intersection of the east driveway leading from the Patten Free Library to Front Street
UNION STREET	Easterly, from Union Street Court to Washington Street
VINE STREET	Westerly, from Water Street to Washington Street
WATER STREET	Southerly, from Centre Street to the north side of the Carlton Bridge on-ramp
WINTER STREET	Easterly, from High Street to Middle Street

(Ord. of 1981, 1983, 1984, 1991, 1992, 1994,\*2015)

### **Sec. 17-211. Stop intersections.**

(a) Except when directed by a police officer or a traffic-control signal to proceed, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall

stop at a clearly marked stop line or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

(b) Stop signs shall be placed at the following locations and shall cause the traffic

flowing in the designated direction to stop at the designated intersections.

<b>STREET</b>	<b>DIRECTION</b>
ACADEMY STREET	Eastbound at Lincoln Street; Westbound at Lincoln Street
ADAMS COURT	Southbound at Denny Road
ALLEN LANE	Northbound at Grove Street; Southbound at North Street
ALLEN STREET	Northbound at Academy Street; Southbound at Centre Street
ANCONA AVENUE	Westbound at High Street; Southbound at Harward Street
ANDREWS ROAD	Eastbound at Dike Road; Westbound at Dike Road; Eastbound at Lincoln Street
ARCH STREET	Westbound at Front Street
ASPEN LANE	Aspen Lane at Judkins Ave.
BAILEY STREET	Southbound at North Street
BARQUE ROAD	Northbound at Harward Street
BATH STREET	Westbound at High Street
BEACON STREET	Eastbound at Washington Street; Westbound at High Street
BEDFORD ROAD	Eastbound at Lincoln Street
BEDFORD STREET	Eastbound at High Street Westbound at Lincoln Street
BERNARD STREET	Northbound at Denny Road
BLUFF ROAD	Northbound at Centre Street
BOWERY STREET	Eastbound at Washington Street; Westbound at Drummond Street
BOWMAN STREET	Eastbound at Denny Rd.; Westbound at Noble Avenue
BRIDGE STREET	Northbound at Bridge Street
BROAD STREET	Eastbound at Commercial Street
BROWN STREET	Southbound at Tallman Street
BRUCE STREET	Eastbound at Washington Street
CARLTON BRIDGE OFF-RAMP	Westbound at Vine Street
HOLLY STREET	Eastbound at Front Street; Westbound at Washington
CENTRAL AVENUE	Southbound at Lark St.; Northbound at Drayton Rd.
CENTRE STREET	Eastbound at High St.; Westbound at Congress Ave.
CENTRE STREET EXTENSION	Eastbound at Congress Avenue



CHARLES STREET	Northbound at Centre Street
CHERRY STREET	Northbound at Weeks St.; Southbound at Rose St.
CHESTNUT STREET	Eastbound at High Street; Westbound at Maple Street; Westbound at Lincoln Street
CLIFTON STREET	Northbound at Pine Street
COBB ROAD	Eastbound at Lincoln Street; Eastbound at Dike Road; Westbound at Dike Road
CONGRESS AVENUE	Southbound at Old U.S. Route No. 1
CORLISS STREET	Eastbound at Washington St.; Westbound at High St.
COTTAGE STREET	Northbound at Leeman Hghwy; Southbound at Western Ave.
COURT STREET	Eastbound at High St.; Southbound at U.S. Rt. No. 1
COURT STREET EXTENSION	Westbound at Shopping Center Drive
CRAWFORD DRIVE	Westbound at Oak Grove Avenue
CRESCENT STREET	Southbound at York Street
CRESCENT STREET COURT	Westbound at Crescent Street (both locations)
CROOKER STREET	Eastbound at Middle Street
CUMMINGS STREET	Westbound at Washington Street
DAVENPORT CIRCLE	Eastbound at Washington Street
DIKE STREET	Northbound at North Street; Southbound at Bedford St.
DRAYTON ROAD	Northbound at Centre Street
DRUMMOND STREET	Southbound at Washington Street
DUMMER STREET	Southbound at York Street; Southbound at Beacon Street; Northbound at Oliver Street; Southbound at Oliver Street
DUMMER STREET COURT	Eastbound at Dummer Street (Both locations)
EAST BRUNSWICK ROAD	Westbound at Ridge Road
EAST LANE	Westbound at Washington Street
EDGETT STREET	Southbound at Centre Street
EDWARD STREET	Eastbound at Washington Street; Westbound at Dummer Street
EDWARD STREET COURT	Southbound at Edward Street
ELM STREET	Eastbound at Front Street; Eastbound at Water Street
ELSINORE AVENUE	Northbound at Leeman Highway; Southbound at Western Avenue

FARRIN STREET	Northbound at Richardson Street
FISHER COURT	Eastbound at Washington St.; Westbound at Middle Street
FITTS STREET	Southbound at North Street
FLORAL STREET	Southbound at Court St. Ext.; Northbound at Centre St.
FREMONT STREET	Eastbound at Front Street; Westbound at Washington Street
FRONT STREET	Northbound at Oak Street; Southbound at Oak Street; Northbound at Centre Street
GARDEN STREET	Southbound at Oak St.; Eastbound at Washington Street
GRAFFAM WAY	Northbound at Riverview Rd.; Westbound at High St.
GRANITE STREET	Westbound at High Street
GREEN STREET	Eastbound at High Street; Westbound at Lincoln St.
GROVE STREET	Eastbound at Front Street; Westbound at Washington Street
HARVEY STREET	Southbound at Prospect Street
HARWARD STREET	Eastbound at Washington Street; Westbound at High Street
HEATH LANE	Southbound at Denny Road; Northbound at Denny Road
HIGH STREET	Northbound at Bridge Street; Southbound at Bridge St. Connector Northbound at Centre Street; Southbound at Centre Street Northbound at Oak Street; Southbound at Oak Street Northbound at North Street; Southbound at North Street Northbound at Oliver Street; Southbound at Oliver Street
HIGH STREET COURT	Eastbound at High Street
HIGHLAND STREET	Northbound at Pine Street; Southbound at Corliss St.
HINCKLEY STREET	Eastbound at Washington Street; Westbound at Middle Street
HUNT STREET	Eastbound at Washington Street; Westbound at Middle Street
HUSE STREET	Eastbound at Centre Street
JUDKINS AVENUE	Eastbound at Oak Grove Avenue; Westbound at Old Brunswick Road
KING STREET	Westbound at Washington Street
LAMBARD STREET	Eastbound at Commercial St.; Westbound at Front St.
LEEMAN HIGHWAY ON RAMP	Westbound at Route 1
LEMONT STREET	Eastbound at Washington Street; Westbound at High Street
LIBBY COURT	Eastbound at Middle Street
LIBERTY STREET	Westbound at High Street

LINCOLN STREET	Southbound at Centre Street; Northbound at North Street (Ord.9/20/00)
LINDEN STREET	Westbound at Washington Street
MAPLE STREET	Northbound at Chestnut Street; Southbound at Chestnut Street
MAPLE GROVE AVENUE	Southbound at North Street
MARCIA STREET	Southbound at Edward Street; Southbound at Beacon Street Northbound at Beacon Street; Northbound at Oliver Street
MARSHALL AVENUE	Northbound at Rose Street; Southbound at Marshall Street
MARSHALL STREET	Eastbound at Washington Street; Westbound at High Street
MATHEWS AVENUE	Southbound at Newton Road; Northbound at Crawford Drive
MAXWELL STREET	Northbound at Russell Street; Southbound at Palmer Street
MEADOW STREET	Northbound at Richardson Street
MEADOW WAY	Eastbound at northern intersection with High Street
MECHANIC STREET	Eastbound at Washington Street
MIDDLE STREET	Southbound at Lemont Street; Southbound at Robinson Street Northbound at Robinson Street; Southbound at Marshall Street Northbound at Marshall Street; Southbound at Rose Street Southbound at Weeks Street; Northbound at Weeks Street Southbound at Corliss Street; Northbound at Corliss Street Southbound at Pine Street; Northbound at Pine Street Northbound at Spring Street; Southbound at Russell Street Southbound at Bath Street; Northbound at Bath Street Southbound at South Street; Northbound at South Street Northbound at Union Street; Southbound at Union Street Southbound at Granite Street; Northbound at Granite street Southbound at Leeman Highway (2); Northbound at Leeman Highway (2); Southbound at Centre Street; Northbound at Centre Street Southbound at Winter Street; Northbound at Winter Street Southbound at Oak Street; Northbound at Oak Street Southbound at North Street; Northbound at North Street Northbound at York Street
MILAN STREET	Eastbound at Washington Street; Westbound at High Street
MILL POND DRIVE	Northbound at Old Brunswick Rd.
NEWTON ROAD	Northbound at Crawford Drive
NICHOLS STREET	Eastbound at High Street
NOBLE AVENUE	Northbound at Denny Rd.; Southbound at Office Dr.
NORTH BATH ROAD	Southbound at Whiskeag Road
NORTH STREET	Eastbound at Washington Street; Eastbound at Front Street Westbound at Washington Street; Westbound at Lincoln Street

NORTH STREET COURT	Southbound at North Street; Westbound at Oak Grove Avenue
NORTH STREET EXTENSION	Eastbound at Lincoln Street
OAK GROVE AVENUE	Southbound at Old Brunswick Rd.; Northbound at Whiskeag Rd.
OAK STREET	Eastbound at Washington Street; Westbound at Washington Street Eastbound at Middle Street; Westbound at Middle Street Westbound at Lincoln Street; Eastbound at High Street (Ord. 9/20/00) Westbound at High Street (Ord. 9/20/00)
OFFICE DRIVE	Eastbound at Meadow Way; Westbound at Heath Lane
OLD SLOOP LANE	Westbound at Barque Road
OLD SOUTH PLACE	Southbound at Union Street; Northbound at Granite Street
OLIVER STREET	Eastbound at Washington Street
PAGE STREET	Southbound at Academy Street; Northbound at Cobb Road
PALMER STREET	Westbound at High Street; Eastbound at Maxwell Street
PARK STREET	Westbound at High Street
PEARL STREET	Eastbound at Front Street; Eastbound at Washington Street Westbound at Washington Street; Westbound at Middle Street
PINE STREET	Eastbound at Washington Street; Westbound at High Street
PLANT STREET	Southbound at Academy Street; Northbound at Cobb Road
PLEASANT AVENUE	Eastbound at Washington Street
PLEASANT STREET	Eastbound at Washington Street; Westbound at Middle Street
PLUM LANE	Southbound at Richardson Street
PRATT STREET	Westbound at Lincoln Street
PROSPECT STREET	Westbound at High Street
QUIMBY STREET	Northbound at Leeman Highway; Eastbound at Elsinore Ave.
RAYMOND COURT	Southbound at Centre Street
REDLON ROAD	Northbound at Western Avenue
RICHARDSON STREET	Eastbound at High Street
RIDGE ROAD	Southbound at Old Brunswick Road; Eastbound at Bay Road
RIVERVIEW ROAD	Westbound at High Street; Westbound at Middle Street
ROBINSON STREET	Eastbound at Washington Street
ROSE STREET	Eastbound at Washington Street; Westbound at High Street
RUSSELL STREET	Eastbound at Washington Street

SCHOOL STREET	Westbound at Middle Street
SCHOONER LANE	Eastbound at Barque Road
SEEKINS DRIVE	Southbound at Crawford Drive
SHAW STREET	Eastbound at Washington Street; Westbound at Middle Street
SHENANDOAH ROAD	Northbound at Old Brunswick Road
SHEPARD STREET	Eastbound at Washington Street; Westbound at Middle Street
SHERIDAN ROAD	Eastbound at Lincoln Street
SHOPPING CENTER DRIVE	Southbound at Route No. 1
SHOPPING CENTER EXIT	Westbound at Congress Avenue
SNOW PARK	Northbound at Academy Street; Southbound at Centre Street
SOMERSET PLACE	Westbound at Washington Street
SOUTH STREET	Eastbound at Washington Street; Westbound at High Street
SPRING STREET	Eastbound at Washington Street
SUMMER STREET	Eastbound at Front Street; Westbound at Front Street; Eastbound at Commercial Street; Westbound at Washington Street (both locations)
TARBOX STREET	Eastbound at High Street
TOWER CIRCLE	Southbound at Denny Road (at both locations)
TRUFANT STREET	Westbound at Washington Street
TURNER COURT	Southbound at York Street
UNION STREET	Eastbound at Washington Street; Westbound at High Street
UNION STREET COURT	Southbound at Union Street
VALLEY ROAD	Southbound at Oliver Street
VARNEY MILL ROAD	Southbound at Bay Road
VINE STREET	Westbound at Washington Street 2 signs
WALKER STREET	Eastbound at Middle Street; Westbound at High Street
WATER STREET	Southbound at Vine Street; Southbound at Centre Street
WASHINGTON STREET	Southbound at North Street; Northbound at North Street (12/4/02)
WEBBER AVENUE	Westbound at High Street
WEEKS STREET	Eastbound at Washington Street; Westbound at High Street
WESLEY STREET	Eastbound at Washington Street; Westbound at Middle Street

WEST STREET	Northbound at Richardson Street; Southbound at Richardson Street; Northbound at Western Avenue
WESTERN AVENUE	Eastbound at High Street; Westbound at Witch Spring Rd.
WESTERN AVE. CONNECTOR	Northbound at Western Avenue Extension; Southbound at Western Avenue
WESTERN AVE. EXT.	Northbound at Witch Spring Road
WILLOW STREET	Northbound at Pearl Street; Southbound at North Street
WINSHIP STREET	Eastbound at Washington Street; Westbound at High Street
WINSLOW COURT	Southbound at Court Street (Both intersections)
WINTER STREET	Eastbound at Washington Street
WRIGHT DRIVE	Eastbound at High Street
YORK STREET	Westbound at Washington Street; Eastbound at High Street

**Sec. 17-212. Yield intersections.**

(a) The driver of any vehicle approaching a yield sign shall, in obedience to such sign, slow down to a speed reasonable for existing conditions and such yield the right-of-way to any vehicle in the intersection or approaching on another roadway too closely as to constitute a hazard during the time such driver is moving across or within the intersection.

(b) Yield signs shall be erected and shall control traffic moving in the designated directions to yield at intersections with the second named street as follows:

STREET	DIRECTION/INTERSECTION
COURT STREET	Northerly at the intersection of Court St. Ext.
CRESCENT STREET	Westbound at High Street
DENNY ROAD	Southerly at Crawford Drive
FRONT STREET	Southerly and turning on to Elm Street
GODDARD STREET	Northerly at Marshall Street
HEATH LANE	Southbound at Adams Court
LEEMAN HIGHWAY	Westerly at Junction with U. S. Rt. No. 1
LINDEN STREET	Easterly at Front Street

SUMMER STREET	Eastbound at the eastern tip of the traffic island. Traffic eastbound on the northerly side of the traffic island shall yield to other traffic eastbound on the southerly side of the traffic island and westbound traffic.
TARBOX PLACE	Easterly at Tarbox Street
TARBOX STREET	Easterly at Spruce Street
WESTERN AVENUE	Westerly at Richardson Street; Easterly at Western Ave. Ext.
WHISKEAG ROAD	Southerly at Oak Grove Ave. Easterly at High Street at the point of the triangle controlling traffic moving northwesterly along Whiskeag Road at the point of the triangle.
WINSHIP STREET	Eastbound at Park Street
WINSLOW STREET	Westbound at Washington Street

(Ord. of 11-18-81; Ord. No. 83-19, 84-8;12/20/00)

### **Sec. 17-213. Entering traffic.**

**(a) Entry from curb.** No person shall drive a vehicle out from the curb on any street without first looking to see that he shall not pull directly into the path of an approaching vehicle, not without giving a signal indicating that he is about to drive out from the curb.

**(b) Emerging from private or public driveway or building.** The driver of a vehicle emerging from a private or public driveway, automobile service station or building shall stop such vehicle immediately prior to driving onto a sidewalk and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway. **(Ord. of 11-18-81)**

### **Sec. 17-214. Sidewalk areas.**

Areas designated as sidewalks, except where a permanent or temporary driveway crosses said sidewalk area, are reserved for the exclusive use of pedestrians and vehicles shall be excluded therefrom, including the operation, parking or standing of any vehicle thereon. (Ord. of 11-18-81)

### **Sec. 17-215. Backing of vehicles restricted.**

The driver of any vehicles shall not back the vehicle into any intersection, over a crosswalk or in any other place, unless such movement can be made in safety and without interfering with other traffic. (Ord. of 11-18-81)



**Sec. 17-216. Operation of motorcycle; passengers.**

A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one (1) person, in which event, a passenger may ride upon the permanent and regular seat as designed for two (2) persons, or upon any other seat firmly attached to the rear or side of the operator and the motorcycle shall be equipped with a passenger footrest. (Ord. of 11-18-81)

**Sec. 17-217. Parade or procession permit required.**

No procession or parade containing one hundred (100) or more persons or ten (10) or more vehicles, excepting the military forces of the United States, the military forces of this state, and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the Chief of Police, and in accordance with the regulations pertaining to parades and assemblies generally contained in Chapter 10 of this Code. (Ord. of 11-18-81)

**Sec. 17-218. Funeral processions; marking of vehicles; manner of operation vehicle.**

- (a) A funeral composed of a procession of vehicles shall be identified as such by the display of lighted headlights.
- (b) No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated.
- (c) This section shall not apply at intersections where traffic is controlled by traffic-control signals or police officers. (Ord. of 11-18-81)

**Sec. 17-219. Commercial vehicles in excess of two axles.**

Section 17-219. Commercial vehicles in excess of two axles.

All commercial vehicles having in excess of two (2) axles shall be prohibited from using Front Street from Vine Street to Cedar Street, Windjammer Way, Floral Street, Cottage Street, Elsinore Avenue, Quimby Street, or Granite Street except by permission of the police chief, with the exception of service vehicles servicing said streets. (Ord. 11-18-81; 8/24/94; 12/20/00; 9/7/11)

## **Sec. 17-220. Closure of streets, sidewalks and public ways.**

The City Council, by Resolution, shall have the authority to close any street, sidewalk or public way, or any portion thereof, in such instances as it deemed appropriate. Such a Resolution shall direct the Manager to cause appropriate devices to be placed and maintained which will effect the closure. Resolution of Council shall be deemed necessary for any closure which exceeds a period of twenty-four (24) hours. (Ord. of 11-18-81)

## **Sec. 17-221. Weight Limits.**

The following weight limits and restrictions to vehicle traffic shall apply to the locations listed below:

## **Sec. 17-221. Overload Movement Permits**

The City of Bath, pursuant to 29A M.R.S.A. Section 2382(3) may issue a permit for the movement of nondivisible objects having a length, width, height or weight greater than that specified in Title 29A of the Maine Revised Statutes Annotated, over a way or bridge maintained by the City of Bath. The City Council of the City of Bath, as the municipal officers in and for said City, do hereby delegate to the Chief of Police of the City of Bath the authority to consider, and when deemed appropriate, issue permits for overlimit movement. The permits shall only be granted in those instances where the provisions and conditions of 29A M.R.S.A. Section 2382 have been met and the Chief of Police has determined that there will be no adverse effect to the health, safety and welfare of the inhabitants of the City of Bath, no damage to City ways and bridges, and no inordinate disruption of the orderly flow of traffic.

## **ARTICLE 5A - RESTRICTING VEHICLE WEIGHT ON POSTED WAYS** (Ord. 2/18/09)

### **Sec. 17-221. Purpose and Authority**

The purpose of this "Ordinance Restricting Vehicle Weight on Posted Ways" (hereinafter, the "Ordinance") is to prevent damage to City ways and bridges in the City of Bath (hereinafter the "City") which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of City ways and bridges, and to reduce the public expense of their maintenance and repair. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3009 and 29-A M.R.S.A. §§ 2395 and 2388.

### **Section 17-222. Definitions**

Unless specifically defined in this Code, definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this Ordinance. Any words not defined therein shall be given their common and ordinary meaning.

## **Section 17-223. Restrictions and Notices**

The City council or their duly authorized designee may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the City ways and bridges, and designate the City ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restrictions during any applicable time-period on any way or bridge so posted unless otherwise exempt as provided herein.

The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time-period during which the restriction applies, the date on which the notice is posted, and the signatures of the City council or their duly authorized designee. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the traveled way or bridge.

Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices. No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

## **Sec. 17-224. Exemptions**

Vehicles that are exempt from the Maine Department of Transportation's (MDOT) and "Rules and Regulations Restricting Heavy Loads on Closed Ways" a date December 31, 1996 and amended on March 4, 1998, are exempt from this Ordinance.

Vehicles. The following vehicles are exempt from this regulation:

- A. Any vehicle or combination of vehicles registered for a gross weight of 23,000 pounds or less.
- B. Any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and traveling without a load other than tools or equipment necessary for the proper operation of the vehicle. This exemption does not apply to special mobile equipment. It shall be a defense to a violation of this sub-section if the combined weight of any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and its load is in fact 23,000 pounds.

- C. Maine Department of Transportation highway maintenance vehicles or vehicles under the direction of a public jurisdiction with permission of the Department engaged in emergency maintenance of public highways or appurtenances thereto.
- D. Passenger cars, pickup trucks, emergency vehicles, school buses, a wrecker towing a disabled vehicle of legal weight from a posted highway, and vehicles with three axles or less under the direction of a public utility and engaged in plant maintenance or repair.
- E. Any vehicle transporting home heating fuel (oil, gas, stove size wood) to a private consumer, gasoline, groceries, bulk milk, bulk feed, solid waste, rubbish, or medical gases may apply for an exemption certificate. These vehicles must be registered in excess of 23,000 pounds and must be carrying a partial load with a weight equal to or less than that indicated on an exemption certificate issued by the Maine Department of Transportation. This certificate shall accompany the vehicle at all times as shall weigh slips, delivery slips, or bill of lading for the load being carried.)
- F. No vehicle delivering home heating fuel shall be required to obtain a municipal permit to travel over a restricted way or bridge if that vehicle operates in accordance with a permit issued by the Maine Department of Transportation.
- G. During a drought emergency declared by the Governor of the State of Maine, no vehicle that is transporting well-drilling equipment for the purpose of drilling a replacement water well, or for improving an existing water well that is no longer supplying sufficient water for residents, or agricultural purposes shall be required to obtain a municipal permit to travel over a restricted way or bridge if the following conditions are met:
  - 1. That vehicle operates in accordance with a permit issued by the Maine Department of Transportation when a department permit is required for a road or way necessary to reach the municipal way on which the property to be drilled is situated; and
  - 2. The City manager or, in the absence of the City manager, a City officer is notified in advance; and
  - 3. The operator of the vehicle is traveling on a road that is posted by the City in accordance with restrictions imposed by the City.

## **Sec. 17-225. Permits**

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the City council or their duly authorized designee for a permit to operate on a posted way or bridge notwithstanding the restriction. The City council or their duly authorized designee may issue a permit only upon all the following findings:

- A. No other route is reasonably available to the applicant;
- B. It is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and

C. The applicant has tendered cash, a bond or other suitable security running to the municipality in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of the same.

Even if the City council or their duly authorized designee makes the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate safety hazards or cause substantial damage to a way or bridge maintained by the City. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the ways and bridges.

In determining whether to issue a permit, the City council or their duly authorized designee shall consider the following factors:

- A. The gross registered weight of the vehicles;
- B. The current and anticipated condition of the way or bridge;
- C. The number and frequency of vehicle trips proposed;
- D. The cost and availability of materials and equipment for repairs;
- E. The extent of use by other exempt vehicles; and
- F. Such other circumstances as may, in their judgment, be relevant.

The City council or their duly authorized designee may issue permits subject to reasonable conditions, including but not limited to, restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

#### **Sec. 17-226. Administration and Enforcement**

This Ordinance shall be administered and may be enforced by the City council or their duly authorized designee. The duly authorized designee shall be the Public Works Director.

#### **Sec. 17-227. Penalties**

Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than \$250 nor more than \$1000. Each violation shall be deemed a separate offense. In addition to any fine, the City may seek restitution for the costs of repairs to any damage of a way or bridge and reasonable attorneys fees and costs. Prosecution shall be in the name of the City and shall be brought in the Maine District Court.

#### **Sec. 17-228. Severability; Effective Date**

Any event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

## **1. STOPPING, STANDING AND PARKING**

### **Sec. 17-251. Stopping and Parking.**

The cemeteries and parks of this city and any of the paths, drives, streets, boulevards or roadways contained therein, are closed between the hours of 10:00 p.m. and 5:00 a.m., except for duly authorized personnel or law enforcement officers. No person shall stop, loiter or be or remain in any of the parks or cemeteries of this city, nor shall any person park an automobile and remain within said park or cemetery between the proscribed hours. (Ord. of 11-18-81)

### **Sec. 17-252. Stopping, standing or parking in specified areas prohibited.**

(a) No person shall stop, stand or park a vehicle, except when necessary to avoid with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk.
2. In front of a public private driveway; not within ten (10) feet of either side of the driveway.
3. Within an intersection.
4. Within ten (10) feet of a fire hydrant. In those instances where the hydrant is not immediately adjacent to the curb, the ten (10) feet within which parking is prohibited shall be measured ten (10) feet in either direction from that point on the curb at which the line of the curb and a line drawn perpendicular to the curb to the hydrant intersect.
5. On a crosswalk.
6. Within twenty (20) feet of the near corner of the curbs at an intersection, unless otherwise designated.
7. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the City Manager indicated a different length by signs or markings.
8. Within twenty (20) feet of the driveway entrance to any fire station and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance (when properly sign-posted).
9. Alongside or opposite any street excavation or obstruction when such stopping or standing or parking would obstruct traffic.
10. On the roadway side of any vehicle stopped or parked at the edge or curb of a street or double parked, so called.
11. Upon any bridge or other elevated structure upon a highway.
12. At any place where official signs prohibit stopping.
13. Within ten (10) feet of a railroad track.

(b) This section is intended to supersede all other portions of this chapter, and all other stopping, standing or parking restrictions are subject to this section. (Ord. of 11-18-81)

**Sec. 17-253. Stopping or standing vehicle prohibited.**

Once signs have been erected or curbs painted yellow, no person shall stop or park a vehicle on any street or parts of streets so marked except in accordance with the terms printed on the sign. The removal of, or damage to, a sign resulting from sources other than employees of the city shall not affect the validity of any parking ordinance. The department of public works shall notify the office of the City Manager when city personnel have established or removed a sign and that notification, as recorded in the records of the City Manager's office, shall be prima facie evidence that the sign was established or removed under the terms of this section. (Ord. of 11-18-81)

**Sec. 17-254. Winter parking restrictions.**

From November 15 to March 15 of each year, no person shall park a vehicle on any street for a period of time longer than thirty (30) minutes, between the hours of 12:00 a.m. (midnight) and 6:00 a.m. of any day, except physicians and other persons on bona fide emergency calls.

Under circumstances where winter conditions continue beyond the March 15th date, the City Manager, by Order, may extend the winter parking restrictions hereunder for such additional time as may be necessary until such winter conditions abate. Any such extension by Order of the Manager shall be published in a newspaper of local circulation. (Ord. 11-18-81; Ord. 5-12-93)

**Sec. 17-255. Loading zone restrictions.**

(a) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading or delivery or pickup and loading of materials, in any place marked as a loading zone from 9:00 a.m. to 6:00 p.m. daily, except on Fridays which shall be from 9:00 a.m. to 9:00 p.m. In no case shall the stop for loading or unloading of materials exceed thirty (30) minutes without special permission from the Chief of Police, or, in the absence of the Chief, from the Officer in charge at the Police Station.

(b) This section shall not apply on Sundays and holidays.

(c) Loading zones shall be designated in Section 17-259.  
(Ord. of 11-18-81)

**Sec. 17-256. Bus Stops.**

(a) The driver of any urban or interurban bus shall not stand or park in any business district at any place other than at a bus stop, except for temporary stopping in accordance with other stopping or parking regulations at any place designated for the purpose of, and while actually engaged in, loading or unloading passengers.



(b) The driver of any bus, other than those described in subsection (a) hereof, shall not stop or stand upon any street in any business district.

(c) No person shall stop, stand or park a vehicle, other than a bus, in a bus stop when such stop has been officially designed and appropriately posted, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of, and while actually engaged in, loading or unloading passengers when such stopping does not interfere with any bus waiting to enter or about to enter such a zone.

(d) Locations designated as bus stops are delineated in Section 17-259.  
(Ord. of 11-18-81)

#### **Sec. 17-257. Bus parking area.**

There is hereby established a bus parking area for the exclusive purpose of parking buses from 6:30 a.m. through 5:00 p.m., Monday through Friday. Said bus parking area is designated in Section 17-259. Excluded from this area are those areas adjacent to fire hydrants, which areas shall continue to be no parking areas pursuant to the provisions of this Code. (Ord. of 11-18-81)

#### **Sec. 17-258. Manner of standing or parking next to curb.**

(a) No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway, headed in the direction of traffic, and with the curbside wheels of the vehicle within twelve (12) inches of the edge of the roadway, except upon those streets which have been marked or signed for angle parking, upon which vehicles shall be parked at the angle to the curb indicated by such mark or signs, except that motorcycles will have one (1) wheel within twelve (12) inches of the curb.

(b) After notification to the Bath Police Department, and with officer in attendance, double parking may be allowed in the business district for the purposes of loading and unloading a vehicle. (Ord. of 11-18-81)

#### **Sec. 17-259. Parking Restrictions.**

(a) In all areas where there is timed parking, such parking shall be in effect between the hours of 6:00 a.m. and 8:00 p.m., except Sundays and holidays, except in the Downtown Business District, where there is timed parking, such parking shall be in effect between the hours of 6:00 a.m. and 5:00 p.m., except Sundays and holidays, unless otherwise specified. For purposes of definition, the Downtown Business District is determined to be that area South of Oak Street, West of the Kennebec River, North of Vine Street, and East of Washington Street. (Ord.5/6/09)

(b) Parking shall be unrestricted along the streets of the City of Bath except as follows:

(GO TO CODES/PARKING FOR COMPLETE LIST)

**Sec. 17-260. Municipal Parking Lots.**

**(a) Permitted use of municipal parking lots.** Any area designated as a municipal parking lot is maintained for the sole exclusive purpose of providing an area where motor vehicles may be left parked or standing and for the purpose of allowing their operators and passengers to conduct their affairs.

**(b) Unauthorized uses of municipal parking lots.** The following acts are deemed to be unauthorized uses of a municipal parking lot and in violation of this section:

1. No person shall have alcoholic beverages and/or illegal drugs, nor shall any person drink alcoholic beverages or use illegal drugs at any time in the municipal parking lot.

2. No person shall bring to, or have in his possession, or set off, or otherwise cause to explode, or discharge or burn, any firecrackers, torpedo, rocket, or other fireworks or explosives of inflammable material, or discharge them, or throw them into any such area from land or highway adjacent thereto. This prohibition includes any substance compound, mixture, or article that, in conjunction with any other substance or compound, would be dangerous from any of the foregoing standpoints

3. No person shall build or attempt to build a fire.

4. No person shall engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to be a breach of the public peace or disturb or interfere unreasonably with any other person or party using the municipal parking lot.

5. No person shall loiter in the municipal parking lots, during the nighttime hours, between sunset and sunrise.

6. No person shall occupy any municipal parking lot for a purpose other than parking and if any such person, subsequent to being told by an authorized law enforcement officer, to quit any municipal parking lot, refuses to quit said lot or, once having quit said lot returns to same for purposes other than parking a motor vehicle in addition to the provision of this chapter, he shall be deemed to be in violation of 17-A M.R.S.A. '402 and/or 17 M.R.S.A. '502, and such violation shall be punishable under the terms of those sections, except that the city manager may waive the within at his discretion for a period of not more than twenty-four (24) hours.

**(c) Designation of parking areas.** The owner and/or operator of any motor vehicle using a municipal or public park lot shall park said vehicle within designated areas as indicated by white or other markings and parking shall be limited to said designated areas.

**(Resolution 5-6-92 (fee for use of the Water Street Parking Lot - west side - shall be \$40.00 per month effective for all months commencing September 1, 1992 until further Resolution of this Council))**

**(Resolution 6-3-2015 (fees for the use of the Water Street Lot (West side), Commercial Street Lot, and the designated parking areas on School Street, shall**

**be Forty-Five Dollars (\$45.00) per month, for each location, effective beginning January 1, 2016, and for all subsequent months thereafter or until such time as amended by further Resolution of this Council.)**

(d) **Water Street parking lot - West side.** Parking on weekdays from 6:00 a.m. to 6:00 p.m. shall be permitted in the Water Street parking area upon obtaining a parking permit or stamp from the Police Department, which shall be affixed on such vehicle in a conspicuous place. The fee for parking by said permit shall be set by Resolution of the City Council. Sales of the permit or stamp shall be limited to those persons employed or living in the central business district of the City from the period of the twenty-first through the twenty-fourth of the month preceding the month of issue of the permit or stamp. Central business district employees may purchase multiple months up to one (1) year. If any permits remain after the twenty-fourth of a particular month, then those remaining permits may be sold to the general public on a month to month basis. The general public may not purchase multiple months but shall purchase only on a month to month basis as spaces are available after the needs of central business district employees have been met. Parking on weekends and on weekdays from 6:00 p.m. to 6:00 a.m. is unrestricted. (Ord.4/19/00)(Ord.5/6/09)

(e) **Water Street parking lot - East side.** Parking in excess of two (2) hours is prohibited in said municipal parking lot to between 6:00 a.m. and 5:30 p.m., subject to other ordinances, in effect. In addition, access to said lot shall be exclusively from the southernmost access from the east side of Water Street, said access being hereby designated as one-way easterly and egress from said municipal parking lot shall be exclusively by way of the northernmost access to Water Street, said area being designated one-way in a westerly direction. (Ord.5/6/09)

(1) There shall be designated by the painting of lines and posting of signs, two (2) parking spaces in the east side Water Street parking lot parallel to the north side of Reny's Department Store and traveling west for a distance of forty (40) feet for the exclusive use of the handicapped.

(2) The handicapped shall be described as the owners or operators of any motor vehicle that has been granted a special handicapped license plate by the Secretary of State of the State of Maine or a windshield placard issued by the same authority indicating that the owner or operator is handicapped according to the Secretary of State and the laws of the State of Maine.

(3) The time limit for parking in these two (2) specific spaces shall be limited to one and one-half (12) hours.

(4) The owner or operator of any vehicle parked in these two (2) spaces that does not bear handicapped license plates or windshield placards or that does bear such markings but are not being used to transport the handicapped shall be in violation of the parking regulations of the City and subject to the penalties as provided in Chapter 8, as well as all other penalties and actions as provided for illegal parking.

(f) **Patten Free Library Parking Lot.** Municipal parking lot located northerly of Summer Street and westerly of the Patten Free Library:

(1) During the business hours of Patten Free Library, six (6) parking spaces shall be reserved exclusively for the use of persons utilizing the services of said library. The City Manager is hereby authorized and directed to clearly designate six (6) such parking places on the westerly side of the entrance of the lot by appropriate means and to cause to be erected signs setting forth the times when such parking spaces are so reserved.

During the hours when Patten Free Library is open for business, three (3) parking spaces on the northerly side of the lot shall be reserved exclusively for employees of said library. The easterly most space on the northerly side of the lot shall be a handicapped parking space. The City Manager is hereby authorized and directed to clearly designate the three (3) staff parking spaces and the handicapped parking space in the appropriate manner.

(2) Said parking lot shall be closed to traffic of any kind between the hours of 10:00 p.m. and 6:00 a.m. and it shall be unlawful for any person to be present in said parking lot between those hours.

Parking in the library lot, other than staff spaces designated by the City Manager, shall be restricted to two-hour parking, Monday through Friday, from 6:00 a.m. to 10:00 p.m.

(g) **Commercial Street Parking Lot** - West side under Sagadahoc Bridge. The parking area which is shown in Exhibit "A" attached to the License Agreement by and between the State of Maine and the City of Bath, dated October 11, 2000 shall be restricted to permitted parking on weekdays from 6:00 a.m. to 6:00 p.m. and shall require a parking permit or stamp issued by the Police Department, which must be affixed on the vehicle in a conspicuous place. The fee for parking by said permit shall be set by Resolution of the City Council. The procedure for acquiring the permit or stamp shall be in accordance with those procedures designated for the Water Street parking lot - West side, Section 17-60(d) of this Ordinance. At all other times, parking shall be unrestricted. This Ordinance and any revision or amendment to this Ordinance shall be in effect as long as the License Agreement or any extension or amendment thereto between the State of Maine and the City of Bath, above-captioned, shall remain in full force and effect.(Ord.11/15/00)(Ord.5/6/09)

#### **Sec. 17-261. Shopping center parking lot.**

- (a) All provisions of section 17-260 and any and all other provisions of this chapter which may be applicable, shall apply to the parking area of the Bath Shopping Center.
- (b) In addition to said provisions, there shall be maintained along the entire length

of the front of the shopping center building a fire lane wherein no parking is permitted from the said front of the building and extending into the said parking lot a distance of twenty-five (25) feet; any vehicle parked in said area shall be subjected to the provisions of Article 8 of this chapter and also subject to the provisions of Article 3 of this chapter providing for the impounding and removal of vehicles.

(Ord. of 11-18-81)

#### **Sec. 17-262. Morse High School Parking Lots.**

(a) Parking in all parking lots adjacent to Morse High School shall be limited to employees of the said Morse High School and students of said school. All-day parking shall be permitted for said employees and students upon obtaining a parking permit or stamp from the Morse High School principal's office. Said stamp or permit shall be conspicuously affixed to the vehicle. Any vehicle found in any parking lot adjacent to the Morse High School without a proper parking permit or stamp shall be subject

to removal and impounding pursuant to Article 3 of this chapter and to such fines and penalties as are designated and appropriate under the provisions of this said chapter. In addition, the parking lots shall be closed to the parking of any vehicles, except for school buses and school-owned vehicles, between 11:00 p.m. and 6:00 a.m. The parking area known as the Maple Street parking lot shall further be restricted to Morse High School faculty parking, and the parking area known as the Chestnut Street parking area shall be restricted to Morse High School student parking. On special occasions, the principal of Morse High School, or his appointed representative, with proper notification to the Chief of Police, shall have the authority to waive all requirements of this section between the hours of 6:00 p.m. and 1:00 a.m. (Ord. 11-18-81)

(b) Recreation Department Parking Lot. The parking area to the south of the Small School and to the west of Hawkes Field shall be restricted, while Morse High School is in session, and between the hours of 6:30am and 3:30pm to parking by Morse High School students. The parking shall be on a permit only basis with the permit being obtained from the Bath Recreation Department. The permit shall be hung from the rearview mirrors and shall be visible while the vehicle is parked in the lot. Any vehicle parked in the lot without a visible permit during the restricted time shall be subject to the enforcement provisions of this Chapter. There shall be a fee established for parking in the lot to be set by the Recreation Department no to exceed that charged by Morse high School for student spaces. If demand for spaces in the lot exceeds capacity, then permits shall be awarded by lottery system. The Recreation Department with the advice and consent of the Chief of Police, shall have the authority to promulgate rules and regulations for the use of the lot and the conduct of the users. (Ord. 9/15/99)

#### **Sec. 17-263. Applicability.**

This article shall apply to all vehicles not in motion, whether said vehicles are running or not running, occupied or unoccupied. (Ord. of 11-18-81)

#### **Sec. 17-264. Wastewater Treatment System Pumping Stations.**

There shall be no parking at any time at all City owned areas adjacent to the City's wastewater treatment system pumping stations except for authorized vehicles on site in connection with the operation, maintenance or repair of the pumping station. (Ord. of 2-24-88)

#### **Sec. 17-265. MDOT-Railroad Right-of-Way**

The parking of vehicles within the State of Maine owned railroad right-of-way within the City of Bath is hereby prohibited. Only vehicles belonging to the Maine Coast Railroad and the Rail Transportation Division of the Maine Department of Transportation shall be allowed on said property. As noted, all other parking is prohibited and all remedies available for illegally parked vehicles may be utilized against any such illegally parked vehicles. (Ord. of 10-21-92)

#### **Sec. 17-266. Railroad Station Lot - East side.**

The parking of vehicles on the railroad station lot east of the railroad station building, shall be permitted for patrons and employees of enterprises located within the building during such time as the patron is utilizing the services of the enterprise and during the working hours of the employee. All others shall be prohibited from utilizing said lot and shall be subject to all remedies available for illegally parked vehicles. (Ord. of 11-92)

#### **Sec. 17-267 - 17-300 Reserved**

### **ARTICLE 7. OFFENSES**

#### **Sec. 17-301. Loud or Unnecessary Noise prohibited.**

No person shall operate a motor vehicle upon any street or way in the city so as to make any loud, unusual or unnecessary noise against the peace, quiet or good order of the City. (Ord. 11-18-81)

#### **Sec. 17-302. Following fire apparatus.**

No driver of any vehicle, other than one on official business, shall follow less than two hundred (200) feet from any fire apparatus traveling in response to a fire alarm, or drive into or park such vehicle within a block where fire apparatus has stopped in answer to a fire alarm. (Ord. of 11-18-81)

#### **Sec. 17-303. Driving across fire hose.**

No vehicle shall be driven over any unprotected hose of the fire department when laid down on any street, or private driveway, to be used at any fire or alarm of fire,



without the consent of the fire department official in command. (Ord. of 11-18-81)

**Sec. 17-304. Clinging to moving vehicles.**

Any person riding upon any motorcycle, coaster, sled, roller skates, or any toy vehicle shall not attach such vehicle or object or himself to any moving vehicle upon any roadway; nor shall any driver or operator of a vehicle cause to be towed any person riding upon any motorcycle, coaster, sled, roller skates, or any toy vehicle.  
(Ord. of 11-18-81)

**Sec. 17-305. Display of unauthorized signs, signals or markings.**

- (a) No person shall place, maintain or display, upon or in view of any highway, any unauthorized sign, signal, marking or device which purports to be, is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic or hides from the view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal. No person shall place or maintain any traffic sign or signal bearing thereon any commercial advertising.
  - (b) Every such prohibited sign, signal or marking is declared to be a public nuisance, and the authority having jurisdiction over the highway is empowered to remove such nuisance or cause it to be removed without notice.
  - (c) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.
- (Ord. of 11-18-81)

**Sec. 17-306. Displaying for sale or repairing vehicles on street.**

No person shall stand or park a vehicle upon any roadway for the principal purpose of displaying it for sale or greasing or repairing such vehicle, except for repairs necessitated by an emergency.  
(Ord. of 11-18-81)

**Sec. 17-307. Using vehicle for advertising purposes.**

No person shall operate or park on any street any vehicle for the primary purpose of advertising. (Ord. of 11-18-81)

**Sec. 17-308. Zone of quiet.**

Whenever authorized signs are erected indicating zone of quiet, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of the vehicle except in an emergency. (Ord. of 11-18-81)



**Sec. 17-309. Interfering with snow removal.**

No vehicle shall be parked at any time on any public street or way so as to interfere with or hinder the removal of snow from such street or way by the City by plowing or loading and hauling. The Chief of Police may cause any vehicle so parked on any street or way, to be removed from the street and placed in a suitable parking space off the street, at the expense of the owner of such vehicle. (Ord. of 11-18-81)

**Sec. 17-310. Deposit of snow.**

(a) No person shall deposit, or cause to be deposited, snow upon a public way or sidewalk.

(b) No person shall deposit, or cause to be deposited, snow in a manner which shall result in the snow being left on or near a hydrant, or otherwise interfere with the operation of the hydrant. (Ord. of 11-18-81)

**Sec. 17-311. Limitation of use of motorbikes, all-terrain vehicles and snowmobiles.**

All motorbikes, all-terrain vehicles and snowmobiles as defined, shall be prohibited from operating in any park, recreational area, school grounds, public parking lot or cemetery within the City of Bath. The operator of such motorbike, all-terrain vehicle or snowmobile shall be subject to the penalties set forth in section 17-352. Nothing herein, however, shall prevent the operation of lawfully registered motorbikes, all-terrain vehicles or snowmobiles from operating and parking in those areas of the parks, recreational areas, cemeteries, school grounds or public parking lots of the City, as are specifically designated for such purpose. (Ord. 11-18-81) (Ord. 2-4-04)

**Sec. 17-312. Double parking.**

Double parking shall not be permitted on any of the streets and ways within the City, except as designated in Section 17-258(b). (Ord. of 11-18-81)

**Sec. 17-313. Parking against the flow of traffic.**

No parking shall be permitted except with the flow of traffic. No person shall cause a vehicle to be parked in a manner which, when leaving the parked area, will require the vehicle to cross a lane of traffic in order to proceed in the direction in which the parked vehicle was headed. (Ord. of 11-18-81)

**Sec. 17-314. Idling Motor Vehicles.(9-4-13)**

Notwithstanding the provisions of 38 M.R.S. Section 585-L, in order to further protect and preserve the natural environment, reduce vehicle emissions, and improve

the air quality in the City of Bath, owners or operators of motor vehicles within the C1 and C4 Zoning Districts, shall be subject to the following:

A. Five-minute limitation. No person may cause or allow a motor vehicle to idle for more than five consecutive minutes while that vehicle is parked within the C1 and C4 Zoning Districts.

B. Exceptions. The limitation set forth in the preceding subsection shall not apply to:

1. Fire trucks, police cars, ambulances, and other emergency vehicles while being used in the course of official business. This provision shall specifically include Public Works vehicles when operating to clear City streets due to inclement weather. Further, for the health and safety of municipal operators, there will be occurrences when vehicles will be left running. Examples include protection from the elements, or for the use of vehicle safety features.

2. Utility vehicles, including contractor's equipment, while engaged in the construction, maintenance, or repair of utility facilities.

3. Motor vehicles idling while in a traffic lane, as the result of congested traffic conditions beyond the driver's control (traffic jams).

4. Refrigeration units of delivery vehicles.

5. Vehicles while warming up in temperatures 20 degrees F and below.

C. Prima facie evidence. The fact that a parked motor vehicle is idling in violation of this section shall be prima facie evidence that the unlawful idling was caused or allowed by the person in whose name that vehicle is registered, unless the operator of the vehicle is present and can be identified as the person responsible for the idling.

D. Penalties. Any owner or operator of a motor vehicle idling in violation of this section shall first receive a warning, written or oral. A second offense may receive a fine not to exceed Fifty Dollars (\$50.00), which violation shall be a civil infraction only.

## **ARTICLE 8. PENALTIES**

### **Sec. 17-351. Penalties for parking violations.**

(a) Penalty limits designated. Any person, firm or corporation who shall violate any provision of the parking regulations in this chapter shall, upon conviction thereof, and in addition to any other remedies provided herein, or unless another penalty is expressly provided by law, be subject to a fine of not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100.00). All fines assessed under this provision shall be payable to and for the exclusive use of the City.

(b) Multiple violations. Each time a vehicle is found to be in violation of any of the items for which a penalty is prescribed, it shall be considered a separate violation. This shall mean that multiple tickets may be issued for violations in the same location.

(c) Payment of waiver fee. Any person, firm or corporation accused of a violation of the provisions of the parking regulations in this chapter may voluntarily waive his right to appear and defend that matter before any court or judicial tribunal, by paying the City, in accordance with the following penalty schedule:

<b>1. Parking in Wrong direction</b>	\$ 5.00
<b>2. Overtime Parking – Except Downtown Business District</b>	
a. The first violation within a six month period (Ord.5/6/09)	\$ 15.00
b. The second violation within a six month period (Ord.5/6/09)	\$20.00
c. The third violation within a six month period(Ord.5/6/09)	\$25.00
d. The fourth violation within a six month period(Ord.5/6/09)	\$30.00
e. The fifth violation within a six month period (effective 10/1/91)(Ord.5/6/09)	\$35.00
<b>2a. Overtime Parking – Downtown Business District Only</b> The first violation within a six month period (Ord.3/20/02)(Ord.6/7/06)	Warning
b. The second violation within a six-month period (Ord.3/20/02) (Ord.6/7/06)(Ord.5/6/09)	\$20.00
c. The third violation within a six-month period (Ord.3/20/02) (Ord.6/7/06)(Ord.5/6/09)	\$25.00
d. The forth violation within a six-month period (Ord.3/20/02) (Ord.6/7/06)(Ord.5/6/09)	\$30.00
e. The fifth violation within a six-month period (Ord.3/20/02) (Ord.6/7/06)(Ord.5/6/09)	\$35.00
f. The sixth or more violation within a six-month period (Ord.3/20/02)(Ord.6/7/06)(Ord.5/6/09)	\$40.00
<b>3. Parking too far from curb(Ord.5/6/09)</b>	\$ 10.00
<b>4. Too Close to driveway(Ord.5/6/09)</b>	\$ 10.00
<b>5. Blocking driveway</b>	\$ 50.00
<b>6. No parking lot Permit</b>	\$ 40.00
<b>7. Parking on sidewalk: (Ord.5/6/09)</b>	
a. Sidewalk not blocked	\$25.00
b. Blocking sidewalk	\$50.00
<b>8. No parking area</b>	\$15.00
<b>9. Parking too near hydrant</b>	\$25.00
<b>10. Parking in bus stop</b>	\$15.00
<b>11. Parking in fire zone or lane(Ord.5/6/09)</b>	\$25.00
<b>12. Parking too near corner</b>	\$25.00

13. Parking on crosswalk	\$25.00
14. Blocking a public way	\$25.00
15. Blocking snow removal	\$25.00
16. All night parking	\$15.00
17. Parking in loading zone	\$15.00
18. Double Parking	\$15.00
19. Use of immobilization device (Ord. 6/7/06)	\$75.00
20. Parking in an area designated for handicap parking (Ord. 6/7/06)	\$200.00
20. All other parking violations	\$ 5.00

(Ord. 9/03/03)

Late Charges: Any person receiving a parking citation shall, within 30 calendar days from the date of issuance, pay the waiver fee as prescribed in Section 17-351. Failure to pay the waiver fee within the 30 calendar days of issuance of the parking citation will result in a late charge of double the original amount imposed on each violation not paid.(Ord.6/7/06)

(d) Hazards to the Public. However, if any of the above-delineated violations, or any other violation of any provision of this Chapter constitutes a hazard to the public, then the offense shall be punished by a fine of no less than fifty dollars (\$50.00) and no more than one hundred dollars (\$100.00). The waiver fee for such violation which constitutes a hazard to the public shall be twenty-five dollars (\$25.00). In addition, the officer involved shall have the authority to immediately remove the vehicle creating the public hazard, pursuant to Article 3 of this Chapter. A public hazard shall be defined as any violation of this chapter which impedes the free flow of traffic along the streets and ways of this City, reduces visibility of said traffic, or in any way endanger pedestrians, or impedes the operation and/or function of emergency vehicles. (Ord. of 11-18-81; Ord. No. 84-9; Ord. No. 90-27, (6-26-91)

(e) Warning for Overtime Parking – Downtown Business District: For the first overtime parking violation occurring in the Downtown Business District, as defined below, a warning shall be issued. Any subsequent violation occurring after the warning during any quarter, also as defined below, shall be subject to the waiver fee as set forth in Subsection 2A under Subsection (c) of this Section (17-351). The Downtown Business District shall be defined as that area within the following boundaries: south of oak Street, west of Kennebec River, north of Vine Street, and east of Washington Street. Six month period shall be defined as any of the time frames inclusive from: January through June, July through December. (Ord. 3/20/02)(Ord. 6/7/06)

## **Sec. 17-352. Moving violations.**

Any violations of the provisions of this Chapter which constitutes moving violations, i.e., are a result of the operation of a vehicle as opposed to the parking of a vehicle, shall be subject to a fine not to exceed one hundred dollars (\$100.00), or imprisonment for a period of time not more than thirty (30) days, or by both. Any fines collected pursuant to this section shall be for the use and benefit of the City. (Ord. of 11-18-81)

## **ARTICLE 9. PARKING COMMISSION**

### **Section 17-401. Establishment.**

The City Council of the City of Bath hereby establishes a Parking Commission for the City of Bath to be known as the Bath Parking Commission.

### **Section 17-402. Purpose.**

The purpose of the Bath Parking Commission shall be to monitor and evaluate all parking and parking related matters affecting the City of Bath, advise City Council and the Planning Board on parking related policy, and to recommend to City Council for consideration ordinances, resolutions operating procedures, and other implementation strategies regarding all parking matters.

### **Section 17-403. Powers and Duties.**

The Bath Parking Commission shall have the following powers and duties:

- a. To advise and make recommendations to City Council on policy matters relating to parking.
- b. To evaluate and monitor parking matters affecting the City of Bath.
- c. To serve as a conduit on all parking matters drawing together any groups, Individuals, or other entities interested in addressing parking or parking related issues.
- d. In conjunction with the Codes and planning Office, to monitor the review and approval process for all parking lot reviews in order to ensure ordinance standard compliance and the implementation of required improvements.
- e. To issue a report at least biannually recommending changes or additions to the Land Use Code and/or Traffic Ordinance.
- f. To recommend for implementation by City Council a license and fee program, and recommend changes, revisions, and updates of the program as may from time to time be appropriate. This program will require annual review of each parking lot in order to ensure compliance with original plan approvals and maintenance agreements.
- g. To provide an annual report to the City Council that addresses parking issues including supply and demand, efficient use of resources and fine structures. The report on at least the following:

1. Utilizing records already developed through previous studies, and with the assistance of the planning Office to produce an annual report that tracks the number of parking spaces lost, gained and by type. Concurrently, the report should also track the efficiency of short and medium parking spaces, to be sure that they are being used most efficiently. As part of that process, "user groups" for parking shall be inventoried (by square foot space) and monitored for change in the future.
  2. Review ordinance provisions for both the review process and municipal spaces and make recommendations for changes where appropriate.
  3. Coordination of activities that lead to the reduction of all day parking in the downtown areas; in essence, continue to work with the park and ride program and shuttle bus program to reduce the number of vehicles entering the downtown for all-day parking.
  4. Self-supporting Fine program. Recommend a Fine structure for all publicly controlled spaces; request an annual report that notes fines, activity areas and the perceptions of continuing problems from the Police Department. Make recommendations for changes in fines where appropriate, adjusting for changes in the market and needs related to increasing or decreasing staff.
  5. Outline successes and failures of the program that year and the likely causes for such.
  6. Summarize, along with other issues related to parking, the present and future problems of parking in Bath.
- h. To develop a marketing strategy in conjunction with downtown merchants and other interested parties.
  - i. To make recommendations with regard to signing to ensure that the parking program is well identified and not confusing to persons utilizing parking resources.
  - j. To recommend a personnel policy aimed at increasing the level of enforcement of parking provisions in the City of Bath, working with the Police Department and recognizing the self-supporting nature of this program.
  - k. To develop recommendations for a capital expenditure program aimed at increasing parking resources in the City of Bath. This program shall include monitoring capital fund buildup, identifying appropriate properties for purchase, improvement or development of programs beneficially related to parking, and recommending funding to such programs.
  - l. To serve where appropriate as a coordinator of activities relating to parking program management, working with various Departments including Police, Codes Enforcement and Planning, and Public Works.
  - m. To provide annual budget recommendations for the City Council; the

recommendations shall identify sources of funding intended to make the program self-sufficient and the utilization of those sources of revenue including unappropriated surplus and surplus monies produced by parking related activities, and shall also address expenditures in the areas of enforcement staff, capital improvements, and marketing.

- n. To address public relations issues relative to methods of informing the public of the location, availability, features and benefits of public parking.
- o. To respond to such other special projects, tasks or inquiries relating to parking issues as may from time to time be assigned by Council or the Planning Board.

#### **Section 17-404. Appointment and Terms.**

The members of the Bath Parking Commission shall be appointed by the City Council and shall each serve for a three year term. The initial membership shall serve staggered terms with three members serving a one year term, three members serving a two year term, and three members serving a three year term.

#### **Section 17-405. Membership.**

Memberships will be drawn from representatives of the following groups: Bath Iron Works Management, Bath Iron Works Unions, Downtown Merchants, one citizen from North of the Carlton Bridge, one citizen from south of the Carlton Bridge, Bath Area Chamber of Commerce, a parking lot owner/operator, the Transit Group, and one City Councilor. These groups may suggest a member for appointment by City Council, however, City Council shall not be bound by that particular recommendation. If any group has no one willing to serve then City Council may appoint a member to the Commission at its own discretion.

#### **Section 17-406. Meetings.**

The Bath Parking Commission shall meet on at least a monthly basis and at such other times as the business of the Commission require. Meetings may be called by the Chairman, or any three members of the Commission. Notice of meetings shall be given to the members in writing or by telephone at least forty-eight (48) hours in advance of the meeting.

#### **Section 17-407. Rules of Procedure.**

The Bath Parking Commission shall have the right to adopt its own rules of procedure.

The Bath Parking Commission shall keep Minutes of its meetings. All action by the Commission shall be by majority vote. All meetings and Minutes shall be open to the public.



**Section 17-408. Officers.**

The Bath Parking Commission shall elect from its midst on an annual basis a Chairman and a Vice Chairman. It will be the Chairman's duty to conduct all meetings and serve as the spokesman for the Commission. The Vice Chairman shall serve in the absence of the Chairman. Additionally, the members shall elect on a yearly basis a Secretary who shall be responsible for the Minutes of all meetings of the Commission, correspondence, and all other written documentation pertaining to Commission affairs.

**Section 17-409. Quorum.**

Five (5) members of the Bath Parking Commission shall constitute a quorum for the transaction of Commission business. (Ord.91-1 6/5/91)

<b>STREET</b>	<b>PARKING RESTRICTION</b>
<b>ACADEMY STREET</b>	<p><b>North Side:</b> From Maple Street to Lincoln Street, no parking; From Lincoln Street and running westerly to Snow Park, no parking; From Snow Park to Dike Road, 2 hour parking, from 6:30am to 3:30pm on days that Morse High School is in session, otherwise, no restrictions. (Ord. 9/99)</p> <p><b>South Side:</b> From Maple Street to Lincoln Street, no parking; From Lincoln Street to Allen Street, no parking; From Allen Street to Dike Road, 2 hour parking, from 6:30am to 3:30pm on days that Morse High School is in session, otherwise, no restrictions.(Ord. 9/99)</p>
<b>ADAMS COURT</b>	No Restrictions
<b>ALLEN STREET</b>	<b>Both Sides:</b> From Centre Street and running northerly to Academy Street, 2 hour parking
<b>ANCONA AVENUE</b>	No Restrictions
<b>ANDREWS ROAD</b>	<b>Both Sides:</b> From Lincoln Street and running westerly a distance of one hundred (100) feet, no parking; From a distance of 100 feet westerly of Lincoln Street, 2 hour parking, from 6:30am to 3:30pm on days that Morse High School is in session, otherwise, no restrictions.(Ord. 9/99)
<b>ARCH STREET</b>	<p><b>South Side:</b> No Parking.</p> <p><b>North Side:</b> From Front Street and running easterly one hundred feet (100') 2 hour parking; from a point one hundred feet (100') from Front Street to Commercial Street, no parking.</p>
<b>BAILEY STREET</b>	No Restrictions
<b>BARQUE ROAD</b>	No Restrictions
<b>BATH STREET</b>	<p><b>South Side:</b> No parking</p> <p><b>North Side:</b> From Washington Street running 83 feet westerly, Loading Zone. From a point 83 feet westerly from Washington Street to Middle Street, 2 hour parking. From Middle Street to High Street, No Parking.</p>
<b>BAY ROAD</b>	No Restrictions
<b>BEACON STREET</b>	No Restrictions
<b>BEDFORD STREET</b>	No Restrictions
<b>BERNARD STREET</b>	No Restrictions
<b>BLUFF ROAD</b>	<p><b>West Side:</b> From Central Avenue to Centre Street, no parking.</p> <p><b>East Side:</b> From Central Avenue and running north to a point thirty (30) feet south of Centre Street, unrestricted parking from March 16<sup>th</sup> to November 14<sup>th</sup>, from November 15<sup>th</sup> to March 15<sup>th</sup>, no parking; From a point thirty (30) feet south of Centre Street to Centre Street, no parking. (Ord. 4/19/00)</p>

<b>STREET</b>	<b>PARKING RESTRICTION</b>
<b>BOWERY STREET</b>	<p><b>East Side:</b> From Washington Street to a point 213 feet southerly of the northerly entrance to the Bath Canning Company facility, no parking.</p> <p>From a point 213 feet southerly of the northerly entrance to the Bath Canning company facility and running northerly for a distance of 50 feet, Loading Zone.</p> <p>From a point 163 feet southerly from the northerly entrance of the Bath Canning Company facility to Washington Street, no parking.</p> <p><b>West Side :</b> From Washington Street to Washington Street, no parking</p>
<b>BOWMAN STREET</b>	No Restrictions
<b>BRIDGE STREET</b>	<b>Both Sides:</b> From the Phippsburg Town line to High Street, no parking.
<b>BROAD STREET</b>	<p><b>South Side:</b> No Parking</p> <p><b>North Side:</b> From Front Street to the Kennebec River, 2 Hour Parking, except that the spaces from Commercial Street to the Kennebec River shall be designated as 4 Hour Parking from November 15<sup>th</sup> through March 15<sup>th</sup>.</p>
<b>BROWN STREET</b>	No Restrictions
<b>BRUCE STREET</b>	No Restrictions
<b>BRUNSWICK ROAD</b>	<p><b>Northeast Side:</b> From North Street to Mill Pond, no parking</p> <p><b>Southwest Side:</b> From North Street to the southerly driveway of the Bath Jr. High School, 2 hour parking; from the southerly driveway of the Bath Jr. High School to Mill Pond, no parking</p> <p><b>Both Sides:</b> From the Mill Pond to the Brunswick town line, no restrictions.</p>
<b>CARLTON BRIDGE ON-RAMP</b>	<b>Both Sides:</b> No parking
<b>CARLTON BRIDGE OFF-RAMP</b>	<b>Both Sides:</b> No Parking
<b>CATO AVENUE</b>	No Restrictions
<b>CEDAR STREET</b>	No Restrictions
<b>CEDAR LANE</b>	No Restrictions
<b>CENTRAL AVENUE</b>	<b>Both Sides:</b> From November 15 <sup>th</sup> to March 15 <sup>th</sup> , no parking. From March 16 <sup>th</sup> to November 14 <sup>th</sup> , unrestricted parking. (Ord. 4/19/00)

STREET	PARKING RESTRICTION
CENTRE STREET	<p>The area on Centre Street adjacent to the Monument, No Parking.</p> <p><b>North Side:</b></p> <p>Starting at a point 20 feet from the intersection of Front Street and running in a westerly direction for 45 feet, Loading Zone (Ord. 6/23/99); From the westerly terminus of the loading zone and running west 150 feet, two-hour parking. From a point 150 feet west of the westerly terminus of the loading zone and running west 25 feet, handicapped parking. From a point 175 feet west of the westerly terminus of the loading zone to a point 85 feet east of Washington Street, two-hour parking. (3/2/2005)</p> <p>From a point 40 feet west of Front Street to a point 85 feet east of Washington Street, 2 hour parking, except that the last space before Water Street and the first space after Water Street shall be designated as 30 minute parking.</p> <p>From a point 85 feet east of Washington Street, and running westerly of Raymond Court, no parking. From a point 20 feet west of Raymond Court and running westerly for a distance of 40 feet, <b>Loading zone</b>. From a point 60 feet westerly of Raymond Court, and running westerly to a point a distance of 65 feet west of Lincoln Street, No Parking.</p> <p>From a point sixty-five (65) feet west from Lincoln Street and running westerly a distance of sixty (60) feet, 2 hour parking. (Ord. 12/3/03)</p> <p>From a point one hundred twenty-five (125) feet west of Lincoln Street and running westerly to Snow park, no parking;</p> <p>From Snow Park to a point opposite Charles Street, 2 hour parking.</p> <p>From a point opposite Charles Street to a point 400 feet easterly from Edgett Street, no parking.</p> <p>From a point 400 feet easterly from Edgett Street and running westerly to a point 200 feet from Edgett Street, 2 hour parking.</p> <p>From a point 200 feet easterly from Edgett Street to Congress Avenue, no parking.</p>

STREET	PARKING RESTRICTION
<b>CENTRE STREET</b>	<p><b>South Side:</b>  From the corner of Front street and running westerly for a distance of 40 feet, no parking. From a point 40 feet from the intersection of Front Street to the first driveway, 2 hour parking, except that the first space shall be designated as 30 minute parking; from the first driveway to the Key Bank exit, no parking; From the Key Bank exit to Water Street, 2 hour parking, except that the last space before Water Street should be designated as 30 minute parking. From a point 116 feet west of the corner of Centre and Washington Streets, No Parking. From a point 116 feet west of the corner of Centre and Washington Streets and running westerly to Middle Street, 2 hour parking. From Middle Street for a distance of 104 feet westerly of Middle Street to a point 10 feet easterly of first fire hydrant, 2 hour parking. (11-3-94)(5/6/09)</p>
<b>CHARLES STREET</b>	No Restrictions
<b>CHERRY STREET</b>	No Restrictions
<b>CHESTNUT STREET</b>	<p><b>North Side:</b>  From High Street running westerly 125 feet, no parking. From a point 125 feet from High Street to a point 40 feet from the easterly side of Maple Street, 2 hour parking. From a point 40 feet east of the southerly side of Maple Street to a point 300 feet westerly of CMP Pole No. 3, no parking. From a point 300 feet westerly of CMP Pole No. 3, to Lincoln Street, no restrictions. From a point 40 feet east of the southerly side of Maple Street to a point 300 feet westerly of CMP Pole No. 3, No Parking. From a point 300 feet westerly of CMP Pole No. 3, to a point 40 feet east of Lincoln Street, 2 hour parking; from a point 40 feet east of Lincoln Street to Lincoln Street, No Parking. (Ord. 2-3-99)</p> <p><b>South Side:</b> From High Street to Lincoln Street, No Parking.</p>

STREET	PARKING RESTRICTION
<b>CLIFTON STREET</b>	No Restrictions
<b>COBB ROAD</b>	<p><b>North Side:</b> From Lincoln Street and running westerly for a distance of 150 feet, No Parking; From a point 150 feet westerly of Lincoln Street to Dike Road, 2 hour parking, from 6:30am to 3:30pm on days that Morse High School is in session, otherwise, no restrictions.(Ord. 9/99)</p> <p><b>South Side:</b> From Lincoln Street to Dike Road, from November 15th through March 15th of each year, No Parking; from March 16th through November 14th of each year, 2 hour parking, from 6:30am to 3:30pm on days that Morse High School is in session, otherwise, no restrictions. (Ord. 9/99)</p>
<b>COMMERCIAL STREET</b>	<p><b>North and West Sides:</b> From Water Street to the southerly entry to the Customs House parking lot, No Parking.</p> <p><b>West Side:</b> From the southerly entrance to the Customs House parking lot to Lambard Street, 4 hour parking. From the northerly side of Lambard Street running northerly a distance of 85 feet, Loading Zone; From a point 85 feet northerly of Lambard Street to a point 82 feet south of Summer Street, No Parking. From a point 82 feet south of Summer Street running north 55 feet, 30 minute Parking. From a point 27 feet south of Summer Street to Summer Street, No Parking. : From the North Side of Summer Street running 186 feet, No Parking. From a point 186 feet North of Summer Street to a point 319 feet North of Summer Street, 4 hour Parking. From a point 319 feet North of Summer Street to Front Street, No Parking. (Ord. 10/5/05)(Ord. 7/1/15)</p> <p><b>South and East Sides:</b> From Water Street to the South side of the Sagadahoc Bridge, No Parking; From the South side of the Sagadahoc Bridge and running North 303 feet, parking by permit only on weekdays between the hours of 6:00 a.m. and 6:00 p.m. Permits may be obtained from the Police Department in the same manner as permits are issued for the parking lot on the West side of Water Street. Parking on weekends and weekdays from 6:00 p.m. to 6:00 a.m. is unrestricted. From a point 303 feet North from the South side of the Sagadahoc Bridge to a point 170 feet North of the northerly side of Summer Street, No Parking, except the area on the West side of the Waterfront Park shall be designated as a 4 hour parking area from November 15th to March 15th of each year, and at all other times shall be designated as a 2 Hour Parking area. From a point 170 feet North of the northerly side of Summer Street to Front Street, No Parking. (Ord. 10/05/05)(Ord. 5/6/09)(Ord. 7/1/15)</p>

<b>STREET</b>	<b>PARKING RESTRICTION</b>
<b>JESSIE ALBERT MEMORIAL DENTAL CLINIC</b>	The property to the west of the Jessie Albert Memorial Dental Clinic defined as that area between the Clinic, Commercial street, Water Street and the Maine Central Railroad now State of Maine, shall be designated as restricted parking for the employees/patrons of the Jessie Albert Memorial Dental Clinic and No Parking shall be allowed for any other vehicles except those utilized by employees or patrons of the Clinic, while at the Clinic.
<b>CONGRESS AVENUE</b>	No Parking
<b>CORLISS STREET</b>	<b>North Side:</b> From Washington Street to a point 70 feet east of Highland Street, No Parking. From a point 70 feet east of Highland Street to High Street, No Restrictions. <b>South Side:</b> No Restrictions
<b>COTTAGE STREET</b>	<b>Both Sides:</b> From U. S. Route No. 1 southerly for 100 feet, No Parking. From a point 100 feet southerly from U. S. Route No. 1 to Western Avenue, No Restrictions
<b>COURT STREET</b>	<b>South and East Side:</b> From High Street to U. S. Route No. 1 (L.H.), No Parking <b>North Side:</b> From High Street running in the westerly direction for a distance of 75 feet, No Parking; from a distance of 75 feet westerly of High Street and running a distance of 138 feet, 2 hour parking; from a point 213 feet westerly of High street and running westerly a distance of 80 feet, including the driveway to the Sagadahoc County Courthouse, no parking; from a point 293 feet westerly from High to a point opposite the intersection of Court St. Ext., 2 hour parking.
<b>COURT ST. CONNECTOR</b>	<b>Both Sides:</b> No Parking
<b>COURT ST. EXT.</b>	<b>Both Sides:</b> No Parking
<b>CRAWFORD DRIVE</b>	No Restrictions
<b>CRESCENT STREET</b>	No Restrictions
<b>CRESCENT ST. CT.</b>	No Restrictions
<b>CROOKER STREET</b>	No Restrictions
<b>CUMMINGS STREET</b>	No Restrictions
<b>DEERING STREET</b>	Discontinued
<b>DENNY ROAD</b>	No Restrictions
<b>DIKE ROAD</b>	No Restrictions
<b>DIKE STREET</b>	No Restrictions
<b>DRAYTON ROAD</b>	<b>West Side:</b> Front Central Avenue and running to a point thirty (30) feet south of Centre Street, unrestricted parking from March 16 <sup>th</sup> to November 14 <sup>th</sup> , from November 15 <sup>th</sup> to March 15 <sup>th</sup> , no parking; <b>East Side:</b> From Central Avenue to Centre Street, no Parking. (Ord. 4/19/00)



<b>STREET</b>	<b>PARKING RESTRICTION</b>
<b>DRUMMOND STREET</b>	No Restrictions
<b>DOUBLING POINT LANE</b>	No Restrictions
<b>DUMMER STREET</b>	No Restrictions
<b>DUMMER ST. CT.</b>	No Parking (Ord. 12/2/2015)
<b>EAST BRUNSWICK RD</b>	No Restrictions
<b>EDGETT STREET</b>	No Restrictions
<b>EDWARD STREET</b>	<b>South Side:</b> From Washington Street to a point opposite Marcia Street, No Parking. From a point opposite Marcia Street to Dummer Street, No Restrictions. <b>North Side:</b> No Restrictions
<b>EDWARD ST. CT.</b>	No Restrictions
<b>ELM STREET</b>	<b>South Side:</b> From Front Street to Water Street diagonal parking. The farthest space from Front Street, handicapped parking, the remaining spaces, two-hour parking. (3/2/2005) From Water Street to a point 287 feet from Washington Street, no parking; From a point 287 feet from Washington street and running westerly 40 feet, 2 hour parking; From a point 247 feet to Washington Street, No Parking. <b>North Side:</b> From Front Street to a point across from Water Street, 2 hour parking. From a point opposite Water Street to Washington Street, No Parking.
<b>ELM ST. CT.</b>	No Restrictions
<b>ELSINORE AVE.</b>	<b>East Side:</b> From U. S. Route 1 to Western Avenue, 2 hour parking. <b>West Side:</b> To U. S. Route 1, No Parking.
<b>FARRIN STREET</b>	<b>Both Sides:</b> Two Hour Parking
<b>FISHER COURT</b>	<b>Both Sides:</b> From Washington Street to Middle Street, No Parking
<b>FITTS STREET</b>	No Restrictions
<b>FLORAL STREET</b>	<b>West Side:</b> From Centre Street to Court Street Extension, No Parking <b>East Side:</b> From the intersection of Court Street Extension running northerly to a point 430 feet south of Centre Street, No Parking. From a point 430 feet of Centre Street running northerly to the intersection with Centre Street, Unrestricted Parking
<b>EDWARD ST. CT.</b>	No Restrictions

<b>STREET</b>	<b>PARKING RESTRICTION</b>
<b>ELM STREET</b>	<p><b>South Side:</b> From Front Street to Water Street diagonal parking. The space closest to Front Street, handicapped parking, the remaining spaces, two-hour parking.(3/2/2005)(6/7/060)</p> <p>From Water Street to a point 287 feet from Washington Street, no parking; From a point 287 feet from Washington street and running westerly 40 feet, 2 hour parking; From a point 247 feet to Washington Street, No Parking.</p> <p><b>North Side:</b> From Front Street to a point across from Water Street, 2 hour parking. From a point opposite Water Street to Washington Street, No Parking.</p>
<b>ELM ST. CT.</b>	No Restrictions
<b>ELSINORE AVE.</b>	<p><b>East Side:</b> From U. S. Route 1 to Western Avenue, 2 hour parking.</p> <p><b>West Side:</b> To U. S. Route 1, No Parking.</p>
<b>FARRIN STREET</b>	<b>Both Sides:</b> Two Hour Parking
<b>FISHER COURT</b>	<b>Both Sides:</b> From Washington Street to Middle Street, No Parking
<b>FITTS STREET</b>	No Restrictions
<b>FLORAL STREET</b>	<p><b>West Side:</b> From Centre Street to Court Street Extension, No Parking</p> <p><b>East Side:</b> From the intersection of Court Street Extension running northerly to a point 430 feet south of Centre Street, No Parking. From a point 430 feet of Centre Street running northerly to the intersection with Centre Street, Unrestricted Parking</p>
<b>FRANKLIN STREET</b>	<b>Both Sides:</b> No Parking
<b>FREMONT STREET</b>	<b>Both Sides:</b> From Front Street to Washington Street, No Parking.

STREET	PARKING RESTRICTION
<b>FRONT STREET</b>	<p><b>East Side:</b> From Vine Street to a point across from the southerly side of Centre Street, two-hour parking. From a point across from the south side of Centre Street to the northerly side of the entrance to the southerly parking lot of The Bank of America, no parking. From the northerly side of the entrance to the southerly parking lot of The Bank of America for a distance of 30 feet,(4/4/12) <b>Bus Stop for Bath Municipal Buses only.</b>(6/7/06)</p> <p>From the northerly terminus of the bus stop to Broad Street, two-hour parking, with the northern most 25 feet being designated handicapped parking. (3/2/2005) From Broad Street to Arch Street, fifteen-minute parking. From Arch Street to a point 39 feet north of the fire hydrant located just south of Elm Street, two-hour parking, except for a 20 foot area located 10 feet north and 10 south of the fire hydrant which shall be no parking, and except for a 29 foot ara beginning 10 feet north of the hydrant and running north 29 feet which is designated handicapped parking. (3/2/2005)(6/7/06)(4/4/12) From a point 39 feet north of the said fire hydrant to Summer Street, No Parking. From the North side of Summer Street running North 310 feet, No Parking. From a point 310 feet North of Summer Street to a point 430 feet North of Summer Street, 4 hour Parking. From a point 430 feet North of Summer Street to Bowery Street, No Parking. (Ord. 4/4/12)(Ord. 7/2/15)</p> <p><b>West Side:</b> From Vine Street to a point 30 feet south of Centre Street, 2 Hour Parking, except for the last space before Centre Street shall be designated as 30 minute parking. From a point 30 feet south of Centre Street to Centre Street, No Parking. From Centre Street to Summer Street, 2 Hour Parking, except that the first space North of Centre Street shall be designated as 30 minute parking.(5/6/09) From Centre Street to Summer Street, two-hour parking. (3/2/2005) From Summer Street to a point 170 feet south of Linden Street, 4 Hour Parking. From a point 170 feet south of Linden Street to Linden Street, RV Parking Only. (Ord. 10/5/05) From Linden Street to Oak Street, no parking. From Oak Street to Grove Street, 2 hr. parking. From Grove Street to Cedar Street, no restrictions. From Cedar Street to Bowery Street, No Parking.</p>

<b>STREET</b>	<b>PARKING RESTRICTION</b>
<b>GARDEN STREET</b>	<b>East Side:</b> From Oak Street and southside to Washington Street, no parking. <b>West Side:</b> From Oak Street, 2 hour parking. <b>North Side:</b> To Washington Street, no parking.
<b>GERALD STREET</b>	No Restrictions
<b>GETCHELL STREET</b>	No Restrictions
<b>GODDARD STREET</b>	No Restrictions
<b>GRAFFAM WAY</b>	No Restrictions
<b>GRANITE STREET</b>	<b>South Side:</b> From Franklin Street to High Street, No Parking <b>North Side:</b> From Franklin Street to High Street, 2 hour parking
<b>GREEN STREET</b>	<b>South Side:</b> From High Street to Lincoln Street, 2 hour parking, from 6:30am to 3:30pm on days that Morse High School is in session, otherwise, no restrictions. (Ord. 9/99) <b>North Side:</b> From High Street to Lincoln Street, 2 hour parking, from 6:30am to 3:30pm on days that Morse High School is in session, otherwise, no restrictions. (Ord. 9/99)
<b>GROVE STREET</b>	<b>South Side:</b> From Front Street to Washington Street, No Parking. <b>North Side:</b> From Front Street to Washington Street, No Restrictions.
<b>HARVEY STREET</b>	No Restrictions
<b>HARWARD STREET</b>	No Restrictions
<b>HEATH LANE</b>	No Restrictions

STREET	PARKING RESTRICTION
<b>HIGH STREET</b>	<p><b>East Side:</b> From the West Bath town line to the Southern end of the East Side of the traffic median located between High Street and Bridge Street, no parking. From the Southern end on the East side of the traffic median between High Street and Bridge Street to the Northern end of the traffic median, 2 hour parking. From the Northern end of the East side of the traffic median to Pine Street, no parking. From Pine Street to Russell Street, 2 hour parking.</p> <p>From Russell Street to South Street, no parking. (Ord. 7/1/15) From South Street to Union Street, 2 hour parking. From Union Street to a point 20 feet north of the northerly driveway to the Medical Center, no parking. From a point 20 feet north of the northerly driveway of the Medical Center to South Entrance to Daigle Funeral Home, 1hour parking. From the South Entrance to Daigle Funeral Home to the North Entrance of Daigle Funeral Home, Funeral Home Parking Only. From the North Entrance of Daigle Funeral Home to Winter Street, 1 hour parking.(11/3/10) From Winter Street to a point 40 feet north of Oak Street, no parking. From a point 40 feet north of Oak Street to a point 166 feet north of Oak Street, no restrictions; From a point 166 feet north of Oak Street to a point 265 feet north of Oak Street, no parking; From a point 265 feet north to a point 171 feet north of North Street, no restrictions. From a point 171 feet north of North Street to a point 400 feet north of North Street no parking. From a point 400 feet north of North Street to termination, no restrictions. (Ord. 7-15-92) (Ord. 2/07/01)</p> <p><b>West Side:</b> From the West Bath town line to the southerly line of Lot 19-1 on Tax Map 45, no parking. From the southerly line of Lot 19-1 to the Winnegance Store Entrance, 2 hour parking. From the Winnegance Store Entrance to the driveway entrance to Lot 21 on Tax Map 45, no parking. From North of the driveway entrance to Lot 21 on Tax Map 45 to the North Line of Lot 21 on Tax Map 45, 2 hour Parking. From the North Line of Lot 21 on Tax Map 45 to Richardson Street, no parking From Richardson Street to Western Avenue, 2 hour parking. (Ord. 7/1/15) From Western Avenue to Centre Street, no parking From Centre Street to a point 20 feet north of the north side of the vehicular entrance to the Vocational School, 1 hour parking. From a point 20 feet north of the north side of the vehicular entrance to the Vocational School and running a distance of 260 feet north to a point, 1 hour parking, except Bus Parking Only from 7:00 am to 2:30 pm on days when school is in session. From a point 260 feet north of a point 20 feet north of the north side of the vehicular entrance to the Vocational School and running north a distance of 65 feet to a point, 1 hour parking; From a point 325 feet north from a point 20 feet north of the north side of the vehicular entrance to the Vocational School and running north a distance of 78 feet, Handicap parking Only; From a point 403 feet north from a point which is 20 feet north of the north side of the vehicular entrance to the Vocational School and continuing north to Chestnut Street, Parking by Permit only, permits to be obtained from Morse High School. (11-3-10) (8-2-2017)</p>

STREET	PARKING RESTRICTION
<b>HIGH STREET</b>	<b>West Side:</b> cont'd From Chestnut Street to the entrance of the Bath Fire Department, no parking. From the entrance of the Bath Fire Department to Green Street, 2 hour parking.(12/20/00) From Green Street to a point 90 feet south from Oak Street, 2 hour parking. From a point 90 feet south from Oak Street to Oak Street, no restrictions. From Oak Street to Bedford Street, no parking. From Bedford Street to North Street, no restrictions. From North Street to a point opposite York Street, no parking. From a point opposite York Street to the southern intersection of Meadow Way, no restrictions. From the southern intersection of Meadow Way to the Northern intersection of Meadow Way, No Parking. From the northern intersection of Meadow Way to termination, no restrictions.
<b>HIGH STREET COURT</b>	No Restrictions
<b>HIGHLAND STREET</b>	<b>Both Sides:</b> From Pine Street to Corliss Street, 2 hour parking.
<b>HINCKLEY STREET</b>	<b>Both Sides:</b> From Washington Street to Middle Street, No Parking
<b>HUNT STREET</b>	No Restrictions
<b>HUSE STREET</b>	No Restrictions
<b>JUDKINS AVENUE</b>	No Restrictions
<b>KING STREET</b>	<b>Both Sides:</b> No Parking
<b>LAMBARD STREET</b>	<b>South Side:</b> From Commercial street to Front Street, 2 hour parking <b>North Side:</b> From Commercial Street to Front Street, No Parking
<b>LARK STREET</b>	<b>South Side:</b> From Bluff Road to Drayton Road, no parking. <b>North Side:</b> From Bluff Road and running west a distance of Thirty (30) feet, no parking; From a point Thirty (30) feet west of Bluff Road to a point thirty (30) feet east of Drayton Road, unrestricted parking from March 16 <sup>th</sup> to November 14 <sup>th</sup> , from November 15 <sup>th</sup> to March 15 <sup>th</sup> , no parking; From a point thirty (30) feet west of Drayton Road to Buff Road, no parking. (Ord. 4/19/00)
<b>LEEMAN HIGHWAY</b>	<b>Both Sides:</b> From intersection of U. S. Route No. 1 to Washington Street, No Parking.
<b>LEEMAN HIGHWAY OFF-RAMP</b>	<b>Both Sides:</b> No Parking
<b>LEEMAN HIGHWAY ON-RAMP</b>	<b>Both Sides:</b> No Parking
<b>LEEMAN HIGHWAY CONNECTOR</b>	<b>Both Sides:</b> No parking

<b>STREET</b>	<b>PARKING RESTRICTION</b>
<b>LEEMAN HIGHWAY EXTENSION</b>	<b>Both Sides:</b> No Parking
<b>LEMONT STREET</b>	No Restrictions
<b>LEONARD COURT</b>	No Restrictions
<b>LIBBY COURT</b>	<b>Both Sides:</b> No parking. From Middle Street to termination, 6:00 a.m. to 8:00 p.m., No Parking
<b>LIBERTY STREET</b>	<b>Both Sides:</b> No Parking <b>Turnaround:</b> No Parking
<b>LINCOLN STREET</b>	<b>East Side:</b> From Centre Street to North Street, 2 hour parking. <b>West Side:</b> From Centre Street to a point 115 feet south of Academy Street, 2 hour parking. From a point 115 feet south of Academy Street to Cobb Road, No Parking. (12/7/94) From Cobb Road to Andrews Road, 2 hr. parking (9-16-98); From Cobb Road to the access road to St. Mary's Parking Lot, 2 hour parking, from 6:30am to 3:30pm on days that Morse High School is in session, otherwise, no restrictions. (9/99). From the access road to St. Mary's Parking Lot to Sheridan Road, No Parking. From Sheridan Road to North Street, 2 hour parking, from 6:30am to 3:30pm on days that Morse High School is in session, otherwise, no restrictions. (9/99)
<b>LINDEN STREET</b>	<b>South Side:</b> From Front Street to Washington Street, No Parking. <b>North Side:</b> From Front Street for a distance of 150 feet westerly, No Parking. From a point 150 feet westerly of Front Street to a point 40 feet easterly of Washington Street, 1 hour parking. From a point 40 feet easterly of Washington Street to Washington Street, No Parking.
<b>LOVER'S RETREAT ROAD</b>	No Restrictions
<b>MAPLE GROVE AVENUE</b>	No Restrictions
<b>MAPLE STREET</b>	<b>East Side:</b> From Academy Street to Chestnut Street, No Parking. From Chestnut Street to Pratt Street, No Restrictions. <b>West Side:</b> From Academy Street for a distance of 320 feet northerly, No Parking From 320 feet north of Academy Street to Pratt Street, One Hour Parking.
<b>MARCIA STREET</b>	No Restrictions
<b>MARSHALL AVENUE</b>	No Restrictions



STREET	PARKING RESTRICTION
<b>MARSHALL STREET</b>	<p><b>South Side:</b> From High Street to Goddard Street, 2 hour parking. From Goddard Street to Middle Street, No Parking. From Middle Street to Washington Street, No Restrictions.</p> <p><b>North Side:</b> From High Street to Washington Street, No Restrictions.</p>
<b>MATHEWS AVENUE</b>	No Restrictions
<b>MAXWELL STREET</b>	<p><b>West Side:</b> From Palmer Street to Russell Street, No Parking</p> <p><b>East Side:</b> From Palmer Street to Russell Street, 2 hour parking.</p>
<b>EVERGREEN STREET</b>	No Restrictions
<b>MEADOW WAY</b>	No Restrictions
<b>MECHANIC STREET</b>	No Restrictions
<b>MIDDLE STREET</b>	<p><b>East Side:</b> From Lemont Street to Weeks Street, No Restrictions. From Weeks Street to Pine Street, 2 hour parking. From Pine Street to a point 80 feet north of Shaw Street, 2 hour parking; from a point 80 feet north of Shaw Street and running for a distance of 80 feet, no parking; From a point 160 feet north of Shaw Street to the southern side of Hinckley Street, 2 hour parking. From the northern side of Hinckley Street to Spring Street, no Parking.(7/5/2017) From Russell Street to the a point fifty-eight feet northerly of Granite Street, no parking; from a point fifty-eight feet northerly from Granite Street and running northerly for a distance of thirty feet, loading zone .. (except from 4:00 p.m. to 5:00 p.m., no parking); from a point eighty-eight feet from Granite Street and running northerly to a point 20 feet north of the northerly side of School Street, no parking; from a point 20 feet north of the northerly side of School Street to a point 30 feet south of the southerly side of Centre Street, 2 hour parking; from 30 feet south of the southerly side of Centre Street to Oak Street, no parking. From Oak Street to North Street, 2 hour parking. From North Street to York Street, No Restrictions.</p> <p><b>West Side:</b> From Lemont street to Weeks Street, No Restrictions. From Weeks Street to Pine Street, 2 hour parking. From Pine Street to Spring Street, no parking. (9/6/06) From Russell Street to Granite Street, 2 hour parking. From Granite Street to Centre Street, No Parking. From Centre Street to Oak Street, 2 hour parking. From Oak Street to North Street, 2 hour parking. From North Street to York Street, No Restrictions.</p>

<b>STREET</b>	<b>PARKING RESTRICTION</b>
<b>MILAN STREET</b>	<b>East and West Side: No Restrictions</b>
<b>MITCHELL LANE</b>	<b>South Side:</b> No Parking with the exception of two (2 fifteen-minute parking spaces running easterly from the northwesterly corner of the City Hall building.
<b>NEWTON ROAD</b>	No Restrictions
<b>NICHOLS STREET</b>	No Restrictions
<b>NOBLE AVENUE</b>	No Restrictions
<b>NORTH BATH ROAD</b>	<b>Both Sides:</b> From New England Telephone Co. pole No. 61 to New England Telephone Co. pole No. 67, No Parking <b>West Side:</b> From New England Telephone Company Pole No. 78 to New England Telephone Company pole No. 80, No Parking. <b>All other areas:</b> No restrictions.
<b>NORTH STREET</b>	<b>North Side:</b> From Front Street to Washington Street, No restrictions. From Washington Street to Willow Street, No Parking. From Willow Street to a point 40 feet easterly of High Street, Unrestricted Parking. From a point 40 feet easterly of High Street, and running westerly to a point 40 feet westerly of High Street, No Parking. From a point 40 feet westerly of High Street to Lincoln Street, No Restrictions. <b>South Side:</b> From Front Street to Washington Street, No restrictions. From Washington Street to High Street, No Parking. From High Street to Lincoln Street, No restrictions.
<b>NORTH STREET EXT.</b>	<b>Both Sides:</b> From Lincoln Street to Congress Avenue, No Parking.
<b>NORTH STREET CT.</b>	<b>West Side:</b> From North Street the entrance to Northwood Court, No Parking; from the entrance to Northwood Court to a point 625 feet from Oak Grove Avenue, no restrictions; from a point 625 feet from Oak Grove Avenue to Oak Grove Avenue, no parking. (8-5-98) <b>East Side:</b> From North Street to Oak Grove Avenue, No Restrictions.

<b>STREET</b>	<b>PARKING RESTRICTION</b>
<b>OAK GROVE AVE.</b>	No Restrictions
<b>OAK STREET</b>	<b>South Side:</b> From Front Street to Washington Street, 2 hour parking. From a point 40 feet westerly of Washington Street to a point 20 feet easterly of Middle Street, Unrestricted Parking. From a point 20 feet easterly of Middle Street to a point 30 feet westerly of Middle Street, No Parking.
<b>OAK STREET</b>	<b>South Side Continued:</b> From a point 30 feet westerly of Middle Street to a point 30 feet easterly of High Street, 2 hour parking. From a point 30 feet easterly of High Street to a point 235 feet westerly of High Street, No Parking. From a point 235 feet westerly of High Street to Lincoln Street, No Restrictions. <b>North Side:</b> From Front Street to appoint 235 feet westerly of High Street, No Parking. From a point 235 feet westerly of High Street to Lincoln Street, No Restrictions.
<b>OFFICE DRIVE</b>	No Restrictions
<b>OLD BRUNSWICK ROAD</b>	See "Brunswick Road"
<b>OLD SLOOP LANE</b>	No Restrictions
<b>OLD SOUTH PLACE</b>	<b>West Side:</b> No Parking <b>East Side:</b> From 6:00 a.m. to 8:00 p.m., 2 hour parking. From 8:00 p.m. to 6:00 a.m., Unrestricted Parking.
<b>OLIVER STREET</b>	<b>North Side:</b> From Washington Street to the easterly most intersection of Oliver Street Circle, No Restrictions. From the easterly most intersection of Oliver Street Circle to a point opposite Marcia Street, No Parking. From a point opposite Marcia Street to High Street, No Restrictions. <b>South Side:</b> No Restrictions.
<b>PAGE STREET</b>	No restrictions
<b>PALMER STREET</b>	<b>Both Sides:</b> From High Street to Maxell Street, 6:00 a.m. to 8:00 p.m., No Parking.

STREET	PARKING RESTRICTION
<b>PARK STREET</b>	<p><b>South Side:</b> From the westerly side of the Mid Coast Hospital Employees Parking Lot, and running westerly 175 feet, 2 hour parking (from 6:00 a.m. to 6:00 p.m., weekdays ... unrestricted parking weekends and holidays and from 6:00 p.m. to 6:00 a.m.); from 175 feet westerly of the Mid Coast Hospital Employees Parking Lot to High Street, no restrictions.</p> <p><b>North Side:</b> From the intersection of Winship and Park Street, running westerly 90 feet, No Parking. From a point 90 feet westerly from the intersection of Winship and Park Streets and running westerly 160 feet, 2 hr. parking (from 6:00 a.m. to 6:00 p.m., weekdays ... unrestricted parking weekends and holidays and from 6:00 p.m. to 6:00 a.m.); from a point 250 feet westerly from the intersection of Winship and Park Streets, and running westerly to High Street, no restrictions.</p>
<b>PEARL STREET</b>	<p>(1-3-2018) <b>South Side:</b> From Middle Street to Willow Street, no restrictions. From Willow Street to Washington Street, no parking. From Washington Street to Front Street, no restrictions.</p> <p><b>North Side:</b> From Middle Street to Front Street, no restrictions.</p>
<b>PINE STREET</b>	<p><b>South Side:</b> From Washington Street to High Street, 2 hour parking.</p> <p><b>North Side:</b> From Washington Street to High Street, 2 hour parking.</p>
<b>PLANT STREET</b>	No Restrictions
<b>PLEASANT AVENUE</b>	<b>Both Sides:</b> From Washington Street to Spring Street, No Parking.
<b>PLEASANT STREET</b>	<p><b>South Side:</b> From Washington Street to Middle Street, 6:00 a.m. to 8:00 p.m., no parking</p> <p><b>North Side:</b> From a point 140 feet westerly from Washington Street to a point 30 feet easterly of its intersection with Middle Street, 6:00 a.m. to 8:00 p.m., 2 hour parking.</p>
<b>PLUM LANE</b>	No Restriction
<b>PREBLE LANE</b>	No Restrictions
<b>PROSPECT STREET</b>	No Restrictions

<b>STREET</b>	<b>PARKING RESTRICTION</b>
<b>QUIMBY STREET</b>	<b>West Side:</b> From Route #1, easterly for a distance of 100 feet, no parking. <b>Both Sides:</b> From a point 100 feet easterly of U.S. Route No. 1 to Elsinore Avenue, no restrictions.
<b>RAYMOND COURT</b>	<b>Both Sides:</b> From Centre Street to Dead End, No Parking.
<b>REDLON ROAD</b>	<b>Both Sides:</b> From Western Avenue to termination, No Parking.
<b>RICHARDSON STREET</b>	<b>South Side:</b> From High Street to Western Avenue, No Parking. <b>North Side:</b> From High Street to Western Avenue, No Parking.
<b>RIDGE ROAD</b>	No Restrictions
<b>RIVERVIEW ROAD</b>	No Restrictions
<b>ROBBINS STREET</b>	No Restrictions
<b>ROBINSON LANE</b>	<b>Both Sides:</b> From Washington Street to Middle Street, No Parking.
<b>ROBINSON STREET</b>	No Restrictions
<b>ROSE STREET</b>	No Restrictions
<b>ROYAL LANE (9-5-2007)</b>	<b>West Side:</b> No Parking. <b>East Side:</b> From a point 20 feet north from North Street proceeding 77 feet, unrestricted, parking; From a point 97 feet and proceeding north to Grove Street, no parking.
<b>RUSSELL STREET</b>	<b>North Side:</b> From Washington Street to High Street, 2 hour parking. <b>South Side:</b> From Washington Street to a High Street, No Parking.
<b>SCHOOL STREET</b>	<b>North Side:</b> Washington Street to Middle Street, No Parking. <b>South Side:</b> From Washington Street to a point 110 feet westerly, No Parking; From a point 110 feet westerly from Washington Street to a point 20 feet easterly from Middle Street, on weekdays between the hours of 6:00 a.m. and 6:00 p.m., parking by permit only. Parking permits may be obtained from the Police Department in the same manner as permits are issued for the parking lot on the West side of Water Street (see Section 17-260(d)). Parking on weekends and on weekdays from 6:00 p.m. to 6:00 a.m. is unrestricted. (Ord. 4/19/00)(5/6/09)
<b>SCHOONER LANE</b>	No Restrictions
<b>SEEKINS DRIVE</b>	No Restrictions
<b>SHAW STREET</b>	<b>Both Sides:</b> From Washington Street to Middle Street, 6:00 a.m. to 8:00 p.m., No Parking.
<b>SHENANDOAH ROAD</b>	No Restrictions

<b>STREET</b>	<b>PARKING RESTRICTION</b>
<b>SHEPARD STREET</b>	<b>South Side:</b> From Washington Street to Middle Street, No Parking. <b>North Side:</b> From Washington Street to Middle Street, 2 hour parking.
<b>SHERIDAN ROAD</b>	No Restrictions
<b>SNOW PARK</b>	<b>Both Sides:</b> From Centre to Academy, 2 hour parking.
<b>SOMERSET PLACE</b>	<b>West Side:</b> No Parking. <b>East Side:</b> No Restrictions.(Ord. 12/3/03)
<b>SOUTH STREET</b>	<b>North Side:</b> From Washington Street to Middle Street, No Parking. From Middle Street to High Street, 2 hour parking. <b>South Side:</b> From High Street to Middle Street, No Parking. From Middle Street to Washington Street, 2 hour parking.
<b>SPRING STREET</b>	<b>South Side:</b> From Washington Street to Pleasant Avenue, 6:00 a.m. to 8:00 p.m., No Parking. <b>North Side:</b> From Washington Street to a point 20 feet from the easterly side of Pleasant Avenue, 6:00 a.m. to 8:00 p.m., 2 hour parking; from said point westerly to Pleasant Avenue, No Parking.
<b>SPRUCE STREET</b>	No Restrictions
<b>SUMMER STREET</b>	<b>South Side:</b> From Commercial street to Front Street, 4 hour parking.(Ord. 4/19/00) From Front Street to the driveway to the old Bath Area Community Federal Credit Union, No Parking, with the exception of a <b>bus loading zone</b> in front of the Y.M.C.A. From the Old Bath Area Community Federal Credit Union to Washington Street, 30 minute parking. <b>North Side:</b> From Commercial Street to Front Street, No Parking. From Front Street to the easterly entrance of the Patten Free Library, 2 Hour Parking. From the easterly entrance of the Patten Free Library to Washington Street, No Parking. (Ord. 10/5/2005)
<b>TALLMAN STREET</b>	No Restrictions
<b>TARBOX PLACE</b>	No Restrictions
<b>TARBOX STREET</b>	No Restrictions
<b>TOWER CIRCLE</b>	No Restrictions
<b>TRUFANT STREET</b>	No Restrictions
<b>TURNER COURT</b>	No Restrictions

STREET	PARKING RESTRICTION
<b>UNION STREET</b>	<p><b>South Side:</b> From Washington Street to a point across from the easterly line of Union Street Court, No Parking. From a point across from the easterly side of Union Street Court to High Street, 2 hour parking.</p> <p><b>North Side:</b> From Washington Street to Middle Street, 2 hour parking. From Middle Street to High Street, No Parking.</p>
<b>UNION ST. CT.</b>	<b>Both Sides:</b> From Union Street to termination, No Parking.
<b>VALLEY ROAD</b>	No Restrictions
<b>VARNEY MILL ROAD</b>	No Restrictions
<b>VINE STREET</b>	<b>Both Sides:</b> From Washington Street to Front Street, No Parking.
<b>WALKER STREET</b>	<b>Both Sides:</b> From Middle Street to High Street, No Parking.
<b>WASHBURN STREET</b>	Discontinued
<b><u>WASHINGTON STREET</u></b>	<p><b>East Side:</b> From Lemont Street and running northerly to a point 60 feet south from a point across from the southerly side of Weeks Street, no parking.</p> <p>From a point 60 feet south from a point across from the southerly side of Weeks Street and running northerly to a point across from the southerly side of Weeks Street, fifteen minute parking.</p> <p>From a point across from the southerly side of Weeks Street, and running to a point 135 feet south of hydrant #19 located southerly and across from Hinckley Street, no parking. ( Ord. 2/2/05)</p> <p>From a point 135 feet south of hydrant #19 located southerly and across from Hinckley Street and running 120 feet northerly, two-hour parking 6:00 a.m. to 2 p.m., and at all other times, no parking. (Ord. 2/2/05)</p> <p>From a point 15 feet south of hydrant #19 located southerly and across from Hinckley Street to a point across from the northerly side of Spring Street, no parking.</p> <p>From a point 60 feet north of the northerly side of Spring Street and running northerly a distance of 113 feet, bus parking; from a point 173 feet north of the northerly side of Spring Street to a point 40 feet south of a point across from the north side of Bath Street, 2 hour parking.(9/19/01)</p> <p>From a point 40 feet across from the north side of Bath Street to South Street at the BIW west gate, 30 minute parking from 6 a.m. to 1 a.m. From a point across from the north side of Bath Street and running 60 feet northerly, 6:00 a.m. to 1:00 a.m., fifteen-minute parking.</p> <p>From a point across from the northerly side of South Street and running northerly 480 feet, permit Parking: From a point 480 feet northerly from a point across from the northerly side of South Street and running northerly 250 feet to the southerly side of Union Street, 2 hour parking. (Ord. 5-3-2017)</p>



STREET	PARKING RESTRICTION
<b><u>WASHINGTON STREET</u></b>	<p><b>East Side - Continued:</b> From Summer Street northerly for 150 feet north, no parking.</p> <p>From a point 150 feet north of Summer Street to a point 40 feet south of the southerly side of Oak Street, two-hour parking.</p> <p>From a point 40 feet south of the southerly side of Oak Street to a point 40 feet north of the northerly side of Oak Street, no parking.</p> <p>From a point 40 feet north of the northerly side of Oak St. to a point 40 feet south of the southerly side of North Street, 2 hour parking.</p> <p>From a point 40 feet south of the southerly side of North Street to a point 40 feet north of the northerly side of North Street, no parking.</p> <p>From a point 40 feet north of the northerly side of North Street to a point which is 225 feet north of northerly side of Cummings Street, No restrictions. From a point 225 feet north of the northerly side of Cummings Street to Bowery Street, No Parking. From Bowery Street to Winslow Place, No Restrictions. From Winslow Place to Harward Street, No Parking. From Harward Street to termination, No Restrictions.</p>

STREET	PARKING RESTRICTION
<b><u>WASHINGTON STREET</u></b>	<p><b>West Side:</b> From Lemont Street to Robinson Street, no restrictions; From a point 20 feet north of the northerly side of Robinson Street to a point 70 feet south of the southerly side of Hunt Street, no trailers allowed at anytime;</p> <p>From Hunt Street to a point 20 feet south of Marshall Street, no restrictions. (5/05/99)</p> <p>From a point 20 feet south of Marshall Street, and running in a northerly direction to a point 40 feet north of Marshall Street, no parking.</p> <p>From a point 40 feet north of Marshall Street to Rose Street, two hour parking.</p> <p>From Rose Street and running northerly a distance of 375 feet, no parking.</p> <p>From a point 375 feet north of Rose Street and running to a point 150 feet north of Weeks Street, 2 hour parking. From a point 150 feet north of Weeks Street to Pine Street, No Parking.</p> <p>From Pine Street to a point 95' feet north, No Parking. From a point 95' feet north of Pine Street to a point 50' feet south of Pleasant Street, 2 hour parking. (3/7/2018)</p> <p>From a point 50 feet south of Pleasant Street to Pleasant Street, <b>Loading Zone.</b></p> <p>From Pleasant Street to Spring Street, No Parking.</p> <p>From Spring Street running north for 80 feet, fifteen minute parking.</p> <p>From a point 80 feet north of Spring Street to Russell Street, one hour parking. From Russell Street to a point sixty (60) feet south of Bath Street, No Parking. From a point sixty (60) feet south of Bath Street to South Street, 30 minute parking from 6:00 a.m. to 1:00 a.m. (5/26/93)</p> <p>From South Street and running northerly 40 feet, No Parking. From a point 40 feet from South Street and running northerly 23 feet, <b>Loading Zone.</b></p> <p>From a point 63 feet northerly from South Street to School Street, No Parking.</p> <p>From a point 63 feet northerly from South Street to a point 177 feet southerly from Centre Street, No Parking. From a point 177 feet southerly from Centre Street to a point 112 feet southerly from Centre Street, 15 minute parking. From a point 112 feet southerly from Centre Street to the southerly driveway of the Chocolate Church, No Parking.</p> <p>From the southerly driveway to the Chocolate Church to a point 200 feet from the southerly side of Winter Street, 2 hour parking. From a point 200 feet from the southerly side of Winter Street and running northerly for a distance of 20 feet, a <b>handicapped parking space.</b></p> <p>From a point 180 feet south of Winter Street and running northerly to a point 40 feet from the south side of Winter Street, 2 hour parking.</p>

STREET	PARKING RESTRICTION
<b><u>WASHINGTON STREET</u></b>	<p><b>West Side - Continued:</b> From a point 40 feet south of the south side of Winter Street to Winter Street, No Parking.  From Winter Street to a point 40 feet south of the southerly side of Oak Street, two-hour parking.  From a point 40 feet south of the southerly side of Oak Street to a point 40 feet north of the northerly side of Oak Street, no parking.  From a point 40 feet north of the northerly side of Oak Street to a point 40 feet south of the southerly side of North Street, two-hour parking.  From a point 40 feet south of the southerly side of North Street to a point 40 feet north of the northerly side of North Street, No parking.  From a point 40 feet north of the northerly side of North Street to Oliver Street, No restrictions.  From Oliver Street to Winship Street, no parking.  From Winship Street to a point 393 feet north of Winship Street, no restrictions.  From a point 393 feet north of Winship Street and continuing northerly for a distance of 255 feet, no parking.  From a point 648 feet north of the northerly side of Winship Street to termination, no restrictions.</p>
<b>WATER STREET</b>	<p><b>East Side:</b> From Vine Street and running northerly 40 feet, No Parking; From a point 40 feet northerly of Vine Street to Centre Street, 1 Hour Parking; From Centre Street to Elm Street, No Parking. (Ord.5/6/09)</p> <p><b>West Side:</b> From Vine Street to a point 40 feet South of Centre Street, 1 Hour Parking; From a point 40 feet South of Centre Street to Centre Street, loading zone; From Centre Street to Elm Street, No Parking. (Ord.5/6/09)</p>
<b>WEBBER AVENUE</b>	<p><b>South Side:</b> From High Street running easterly 100 feet, No Parking.  From a point 100 feet easterly of High Street to Washington Street, No Restrictions.  <b>North Side:</b> No Restrictions</p>
<b>WEEKS STREET</b>	<p><b>North Side:</b> From Washington Street to Middle Street, 2 hour parking.  From Middle to High Street, No Restrictions.  <b>South Side:</b> No Restrictions</p>
<b>WESLEY STREET</b>	<p><b>South Side:</b> From Washington to Middle Street, No Parking.  <b>North Side:</b> From Washington to Middle Street, 2 hour parking.</p>
<b>WEST STREET</b>	<p><b>Both Sides:</b> 2 hour parking</p>

STREET	PARKING RESTRICTION
<b>WESTERN AVENUE</b>	<p><b>South Side:</b> From U.S. Route No. 1 to Redlon Road, no parking.  From Redlon Road to a point westerly 185 feet from the west side of High Street, two-hour parking.  From a point westerly 185 feet from the west side of High Street, to the west side of High Street, no parking.</p> <p>North side:  From U.S. Route No. 1 to Western Avenue connector, no parking,  From Western Avenue connector to a point 170 feet westerly of the west side of High Street, two-hour parking.  From a point 170 feet westerly of the west side of High Street to the west side of High Street, no parking.</p>
<b>WESTERN AVENUE CONNECTOR</b>	<b>Both Sides:</b> From Western Avenue to Western Avenue Extension, No Parking.
<b>WESTERN AVENUE EXTENSION</b>	<b>Both Sides:</b> From Western Avenue to U. S. Route No. 1, No Parking.
<b>WHISKEAG ROAD</b>	<p><b>Both Sides:</b> From the bridge and running 100 feet north, No Parking.  From the bridge and running 100 feet south, No Parking.</p>
<b>WILLIAMS COURT</b>	Discontinued
<b>WILLOW STREET</b>	No Restrictions
<b>WINSHIP STREET</b>	<p><b>North Side:</b> From Washington street and running 133 feet westerly, no parking.  From a point 133 feet westerly of Washington Street and running westerly for 170 feet, two-hour parking from 7:00 a.m. until 4:00 p.m.  From a point 303 feet westerly from Washington Street to High Street, no parking.</p> <p><b>South Side:</b> From Washington Street and running westerly to a point 250 feet westerly from the intersection of Winship Street and Park Street, no parking.  From a point 250 feet westerly from the intersection of Park Street to High Street, no restrictions.</p>
<b>WINSLOW STREET</b>	No Restrictions
<b>WINTER STREET</b>	<b>Both Sides:</b> From High Street to Washington Street, No Parking - Fire Lane
<b>WINTER STREET COURT</b>	<p><b>West Side:</b> No Parking (1/8/03)  <b>East Side:</b> No Restrictions (1/8/03)</p>
<b>WRIGHT DRIVE</b>	No Restrictions

STREET	PARKING RESTRICTION
YORK STREET	<b>South Side:</b> Running westerly for a distance of 477 feet from Washington Street, No Parking. <b>Other areas:</b> No restrictions.

## CHAPTER 20. **PROPERTY ASSESSED CLEAN ENERGY (PACE) 12/1/10**

### **ARTICLE I - PURPOSE AND ENABLING LEGISLATION**

#### § 20.01 Purpose

By and through this Chapter/Ordinance, the City of Bath declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy ("PACE") program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City. The City declares its purpose and the provisions of this Ordinance to be in conformity with federal and State laws.

#### § 20.02 Enabling Legislation

The City enacts this Ordinance pursuant to Public Law 2009, Chapter 591 of the 124<sup>th</sup> Maine State Legislature -- "An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act" (codified at 35-A M.R.S.A. § 10151, *et seq.*).

### **ARTICLE II - TITLE AND DEFINITIONS.**

#### § 20.03 Title

This Chapter/Ordinance shall be known and may be cited as "the City of Bath Property Assessed Clean Energy (PACE) Ordinance" (the "Ordinance").

#### §20.04 Definitions

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

**1. Energy saving improvement.** "Energy saving improvement" means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

A. Will result in increased energy efficiency and substantially reduced energy use and:

(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or

(2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

**2. Municipality.** "Municipality" shall mean the City of Bath

**3. PACE agreement.** "Pace agreement" means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

**4. PACE assessment.** "PACE assessment" means an assessment made against qualifying property to repay a PACE loan.

**5. PACE district.** "Pace district" means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality's boundaries.

**6. PACE loan.** "PACE loan" means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

**7. PACE mortgage.** "PACE mortgage" means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

**8. PACE program.** "PACE program" means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

**9. Qualifying property.** "Qualifying property" means real property located in the PACE district of the Municipality.

**10. Renewable energy installation.** "Renewable energy installation" means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.



**11. Trust.** “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

### **ARTICLE III - PACE PROGRAM**

**1. Establishment; funding.** The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust’s administration of the municipality’s PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality’s PACE program.

**2. Amendment to PACE program.** In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

### **ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST**

1. **Standards adopted; Rules promulgated; model documents.** If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality’s adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

### **ARTICLE VI – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY**

#### **1. Program Administration**

**A. PACE Administration Contract.** Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

- i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality’s PACE district;
- ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;

- iii. the Trust, or its agent, will disburse the PACE loan to the property owner;
- iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- v. the Trust, or its agent, will be responsible for collection of the PACE assessments;
- vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
- vii. the Municipality, or the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

**B. Adoption of Education and Outreach Program.** In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

**C. Assistance and Cooperation.** The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

**D. Assessments Not a Tax.** PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

## **2. Liability of Municipal Officials; Liability of Municipality**

**A.** Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

**B.** Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.